

In the Matter of)
)
Towerstream Corporation)
)
Petition for Declaratory Ruling Regarding) CRS-
Application of the Over-the-Air Reception)
Devices Rule to San Francisco Zoning)
Ordinances and Antenna Siting Procedures.)
)

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SUMMARY

Towerstream, a competitive broadband and Wi-Fi service provider in San Francisco, seeks a declaratory ruling that the complicated and inconsistent antenna permitting process and siting restrictions contained in the City and County of San Francisco's ("City") WTS Guidelines violate the Commission's Over-the-Air-Reception Devices ("OTARD") Rule. Preemption of the City's burdensome permitting process is appropriate under OTARD because Towerstream is providing fixed wireless services in San Francisco utilizing antennas less than one meter in diameter on premises in which it has a property interest.

The City's antenna permitting process is overly burdensome and costly and has been applied inconsistently to Towerstream by various City departments. As such, the City's application and enforcement of its WTS Guidelines has *significantly* impaired Towerstream's ability to install, maintain, and use antennas to provide wireless high-speed Internet services to customers living and working within San Francisco. Furthermore, the City's WTS Guidelines are not legitimate safety restrictions and were not adopted primarily for historic preservation purposes.

The FCC's OTARD Rule was created to preempt the exact kinds of complicated, costly, unnecessary, and inconsistent local restrictions on antennas that embody the WTS Guidelines. Furthermore, as a new entrant in the broadband service industry, Towerstream must compete against other broadband providers, wireless providers, incumbent local exchange carriers, and competitive telecommunications carriers. In the presence of such competition, by delaying Towerstream's deployment and delivery of broadband services to consumers throughout the San Francisco Bay Area, the City's wireless antenna siting rules not only constitute unenforceable OTARD violations, but have also exposed Towerstream to competitive injury. As such, the FCC

should move quickly in its determination that the WTS Guidelines are preempted, thus terminating the maze of red-tape in the permitting process and pending enforcement penalties levied by the City and allowing Towerstream to continue providing competitive wireless broadband services to customers throughout San Francisco.

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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CRS-

PETITION FOR DECLARATORY RULING

Towerstream Corporation (“Towerstream”), by its attorneys, and pursuant to Sections 1.4000(e) and 1.2 of the rules and regulations of the Federal Communications Commission (“FCC” or “Commission”),¹ hereby petitions the Commission for a determination that Section 207 of the Telecommunications Act of 1996 (the “1996 Act”) and the Commission’s Over-The-Air-Reception-Devices (“OTARD”) Rule² preempt enforcement of the Wireless Telecommunications Services Facilities Siting Guidelines and San Francisco Planning Code Sections 209.6(b), 227(h) and (i)³ (collectively, the “WTS Guidelines”) of the City and County

¹ 47 C.F.R. §§ 1.4000(e), 1.2.

² Telecommunications Act of 1996, Pub. L. No. 104-104, § 207, 110 Stat. 56, 114 (1996) (“1996 Act”); 47 C.F.R. § 1.4000.

³ Wireless Telecommunications Services Facilities Siting Guidelines, endorsed by San Francisco Planning Commission Resolution No. 14182 (1996); San Francisco Planning Code §§ 209.6(b), 227(h) and (i).

of San Francisco (the “City”).⁴ As explained in greater detail herein, the City’s WTS Guidelines impair the installation, maintenance, or use of antennas deployed, or to be deployed, by Towerstream throughout the San Francisco area, imposing tremendous expense and competitive harm to Towerstream. Without swift Commission action in preempting the City’s WTS Guidelines, Towerstream will continue to be harmed and ultimately, will not be able to provide competitive wireless broadband services to new customers in San Francisco.

I. INTRODUCTION AND BACKGROUND

Towerstream, a competitive entrant in the wireless broadband market, provides affordable wireless high-speed point-to-point Internet access to business customers, as well as Wi-Fi services, in a number of major markets throughout the United States, including San Francisco. Towerstream’s point-to-point Internet services provide a low-cost alternative to services provided by industry giants such as AT&T and Verizon. Towerstream utilizes Wi-Fi services to provide end-user broadband services and excess capacity for larger providers of mobile wireless services. Towerstream is a true market innovator that looks for creative solutions by which it can provide competitive broadband services to customers in large metropolitan markets.

⁴ This Petition is filed without prejudice to Towerstream’s right to seek additional relief on the basis that the City’s actions violate the FCC’s “shot clock” ruling, *Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, Declaratory Ruling, 24 FCC Rcd 13994 (2009) (“*Shot Clock Declaratory Ruling*”), *aff’d*, *Order on Reconsideration*, 25 FCC Rcd 11157 (2010) (“*Shot-Clock Order on Recon.*”), *aff’d*, *City of Arlington, Tex. v. FCC*, 668 F. 3d 229 (5th Cir. 2012), *aff’d*, 569 U. S. ____, Nos. 11–1545 and 11–1547 (May 20, 2013), and fundamental due process, or that the City lacks jurisdiction to review Towerstream’s antennas pursuant to the authority reserved by Section 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. § 332(c)(7) (the “Act”).

The restrictions at issue are the WTS Guidelines, attached hereto as **Exhibit A**. An organizational chart of the City agencies involved in antenna permitting and oversight is attached hereto as **Exhibit B**. The WTS Guidelines were adopted in 1996 to address an anticipated onslaught of applications to be filed by Commercial Mobile Radio Service (“CMRS”) operators seeking approval to install cellular telephone towers and antennas throughout San Francisco.⁵ At that time, the City adopted the WTS Guidelines to address concerns about the possible health effects of exposure to electromagnetic radiation (“EMR”) and radiofrequency (“RF”) emissions from cellular telephone antennas, as well as to regulate the potential aesthetic impact of siting large cellular telephone antennas on rooftops and new towers throughout San Francisco.⁶ Now, seventeen years later, the City continues to apply the requirements set forth in the WTS Guidelines to *all* wireless antennas, regardless of use, size, or land use implications. Adopted by the Planning Commission and not by the City’s legislative body, the WTS Guidelines are policy, not law. The City’s application of the WTS Guidelines, however, acts as law and has impaired Towerstream’s deployment of wireless antennas throughout San Francisco. While the Planning Commission has revised the WTS Guidelines several times to require more scrutiny of WTS applications, the WTS Guidelines have never been amended to more appropriately address new wireless technologies, such as the small Part 15 wireless devices and antennas used by Towerstream throughout San Francisco.⁷

⁵ See, San Francisco Planning Commission Resolution No. 14182, p. 47.

⁶ See, e.g., WTS Guidelines at p. 12.

⁷ The San Francisco Department of Public Works recently completed a major revision and simplification of its own guidelines recognizing changes in technology, but this city department only has jurisdiction over public streets, alleys, and rights of way.

The City's imposition of the WTS Guidelines has *significantly* impaired Towerstream's ability to install, maintain, and use antennas to provide wireless high-speed Internet services to customers living and working within San Francisco. Since July 2012, Towerstream, a small wireless Internet service provider with limited staff and resources, has been forced to devote thousands of hours and hundreds of thousands of dollars towards attempting to understand and satisfy the overly burdensome antenna siting restrictions contained in the WTS Guidelines. Although Towerstream has met with the Planning Department and the San Francisco Department of Building Inspection ("Department of Building Inspection") on numerous occasions and repeatedly sought clarity on the antenna permitting process, to date, Towerstream has been unable to obtain consistent and timely guidance on the WTS permitting process. This dearth of clarity is, in large part, a result of contradictory advice due to the absence of regulations that have kept up with technology, and inconsistent interpretations provided by different employees of the Planning Department. In addition, as City planners have acknowledged, many of the necessary steps and procedures in the permitting process have not yet been put into writing or otherwise made available to the public, and thus, are not available as official rules, regulations or even written policies. As a result, the information Towerstream has been able to glean on the permitting process has been wildly inconsistent, changing with the interpretation of individual City planners. The complete absence of predictability in the City's application of the WTS Guidelines has forced Towerstream to devote even more time and resources to the permitting process, and has resulted in further delays and multiple fines and enforcement actions initiated by the City.

In sum, the City's arbitrary and inconsistent interpretation and implementation of the WTS Guidelines has significantly impaired Towerstream's deployment of wireless broadband

services in San Francisco. After attempting to work in good faith with the City for over nine months, Towerstream has been left with no choice but to seek federal preemption of the WTS Guidelines. The filing of this Petition tolls all enforcement by the City against Towerstream (and relevant property owners), including the City's demands for the removal of existing antennas.⁸

II. SECTION 207 OF THE 1996 ACT AND THE OTARD RULE PREEMPT THE ENFORCEMENT OF THE WTS GUIDELINES

In 1996, as part of an effort to promote competition in the telecommunications industry and encourage the rapid deployment of new technologies and advanced services,⁹ Congress ordered the Commission to promulgate rules prohibiting restrictions “that impair a viewer's ability to receive video programming services through devices designed for over-the-air reception...”¹⁰ Pursuant to this directive, the Commission adopted Section 1.4000 of the rules, which generally prohibits governmental and private restrictions that impair the installation, maintenance, or use of antennas that are one meter or less in diameter on property within the exclusive use or control of the antenna user, where the user has a direct or indirect ownership or leasehold interest in the property.¹¹ The only exceptions to the OTARD Rule are restrictions that are necessary to address valid and clearly articulated public health and safety or historic preservation issues, and even then, the restrictions must be narrowly tailored, impose as little

⁸ 47 C.F.R. § 1.4000(a)(4).

⁹ See, 1996 Act, *purpose statement*, 110 Stat. 56, 56 (1996).

¹⁰ 1996 Act, § 207.

¹¹ See 47 C.F.R. § 1.4000; see *Preemption of Local Zoning Regulation of Satellite Earth Stations*, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 5809 (1996).

burden as possible, and be applied in a nondiscriminatory manner throughout the regulated area.¹²

The OTARD Rule also provides that any party may petition the Commission for a determination of whether a restriction is prohibited or permissible.¹³ The party seeking to impose a challenged restriction bears the burden of demonstrating that the restriction is permissible.¹⁴

Although the OTARD Rule initially only applied to antennas used for video reception, the Commission later extended the OTARD protections to antennas used for transmitting or receiving fixed wireless signals, finding that local governmental regulations that unreasonably restrict the placement of fixed wireless antennas “impede the full achievement of important federal objectives, including the promotion of telecommunications competition and customer choice and the ubiquitous deployment of advanced telecommunications capability.”¹⁵

Here, the Commission should find the City’s WTS Guidelines unenforceable, since: (1) Towerstream’s fixed wireless antennas qualify for OTARD protection; (2) the WTS Guidelines violate the OTARD Rule by unreasonably delaying and increasing the cost of Towerstream’s installation, maintenance, and use of its antennas; and (3) the WTS Guidelines were not adopted,

¹² 47 C.F.R. § 1.4000(b).

¹³ 47 C.F.R. § 1.4000(g).

¹⁴ 47 C.F.R. § 1.4000(e).

¹⁵ See *Promotion of Competitive Networks in Local Telecommunications Markets*, First Report and Order, Fifth Report and Order and Memorandum Opinion and Order, 15 FCC Rcd 22983, ¶ 107 (2000) (“*Competitive Networks Order*”); amended by *Promotion of Competitive Networks in Local Telecommunications Markets*, Order on Reconsideration, 19 FCC Rcd 5637 (2004) (“*Competitive Networks Order on Reconsideration*”).

and are not narrowly tailored, to achieve legitimate public safety, health, or historic preservation objectives.

A. THE OTARD PROTECTIONS APPLY TO TOWERSTREAM’S ANTENNAS.

The Commission has unambiguously applied the OTARD Rule to “customer antennas - one-meter or less in size - used for transmitting and/or receiving any *fixed wireless signal* of any commercial non-broadcast communications signal that is transmitted via wireless technology to or from a customer location.”¹⁶ The OTARD protections apply to Towerstream’s antennas, which: (1) provide fixed wireless signals; (2) are all one meter or less in diameter or diagonal measurement; and (3) are installed “on property within the exclusive use or control of the antenna user where the user has a direct or indirect ownership or leasehold interest in the property.”¹⁷

1. Towerstream Provides Fixed Wireless Service.

As explained above, although OTARD originally only applied to video reception antennas, in order to promote competition and the deployment of wireless broadband services, the Commission later amended the OTARD Rule to include transmitting and receiving fixed wireless antennas after finding that “distinguishing in the protection afforded based on the services provided through an antenna produces irrational results.”¹⁸ In the *Competitive Networks Order on Reconsideration*, the Commission clarified that the OTARD Rule also applies to

¹⁶ *Commission Staff Clarifies FCC’s Role Regarding Radio Interference Matters and Its Rules Governing Customer Antennas and Other Unlicensed Equipment*, Public Notice, 19 FCC Rcd 11300 (OET 2004).

¹⁷ 47 C.F.R. § 1.4000(a)(1).

¹⁸ *Competitive Networks Order* at ¶ 98.

“installations serving the premises customer that also relay signals to other customers, such as is typical in mesh networks...”¹⁹

In San Francisco, Towerstream uses Part 15 unlicensed devices, microwave and unlicensed point-to-point links to provide fixed wireless broadband services to businesses and consumers.²⁰ The OTARD Rule does not distinguish between antennas using licensed or unlicensed technologies. As the Commission found in the *Continental MO&O*, “OTARD applies to the antennas of unlicensed devices operating under Part 15 of our rules to the same extent as to the antennas of licensed services.”²¹

2. Towerstream’s Antennas Are Less than One Meter in Diameter.

The OTARD protections apply to all of Towerstream’s wireless Internet antennas, since these antennas, whether providing point-to-point or Wi-Fi service, are less than one meter in

¹⁹ *Competitive Networks Order on Reconsideration* at ¶ 17, n. 42.

²⁰ Towerstream’s fixed wireless service provides signals to and from fixed customer locations. The Commission has previously held that the OTARD Rule applies to antennas that also relay or route signals to other customers, so long as they are primarily used by the antenna owner “to provide service at the same location.” *Petition of Continental Airlines for a Declaratory Ruling*, Memorandum Opinion, and Order, 21 FCC Rcd 13201, ¶ 6 (2006) (“*Continental MO&O*”) (citing *Competitive Network Order on Reconsideration* at ¶¶ 13-18). In Towerstream’s case, the same antenna used by Towerstream to provide broadband services to a specific user within a building can also be used to provide service to multiple customers within that building, and can be used to provide Wi-Fi services to anyone with access to the Wi-Fi network. Indeed there are numerous situations in which a Towerstream antenna initially was installed to provide service to a single customer, and was later used to provide Wi-Fi to anyone with access to the Wi-Fi network. It would produce “irrational results”, however, to distinguish in the protection afforded Towerstream’s antennas based on the services provided through such antennas. See *Continental MO&O* at ¶ 5. To the extent that a Towerstream antenna could be deemed to provide Wi-Fi services “primarily” to end-users around, but not physically located in, the building on which the antenna is located, the Commission should expand the definition of “fixed wireless services”, to the extent necessary, to afford OTARD protection to such antennas.

²¹ *Id.* at ¶ 8.

diameter. In fact, most of Towerstream's equipment is about the size of a tablet computer.

Examples of Towerstream's antennas are attached hereto as **Exhibit C**.

3. Towerstream's Antennas are Located on Premises in Which It Has a Property Interest.

The OTARD Rule requires that "the party who installs an antenna and asserts rights under OTARD must have a leasehold interest in and exclusive use and control of the premises where the antenna is installed."²² In this case, Towerstream's antennas are mounted on buildings in which Towerstream has a property interest and in locations either within Towerstream exclusive use and control²³ or with the owner's permission.²⁴

B. THE WTS GUIDELINES VIOLATE THE OTARD PROTECTIONS AND ARE UNENFORCEABLE.

The OTARD Rule generally prohibits governmental and private restrictions on antennas that: (1) unreasonably delay or prevent installation, maintenance, or use; (2) unreasonably increase the cost of installation, maintenance, or use; or (3) preclude reception of an acceptable quality signal. The only exceptions in the OTARD Rule are for restrictions necessary to address

²² *Continental MO&O* at ¶ 15.

²³ Although the Commission included an "exclusive use" requirement in the OTARD Rule, Section 207 of the 1996 Act governs all over-the-air reception devices and included no such limitation. Since Congress did not direct the Commission to distinguish between "exclusive use" areas and "common areas," no such distinction should be made with regard to OTARD preemption. See 1996 Act, § 207; see *Implementation of Section 207 of the Telecommunications Act of 1996; Restrictions on Over-the-Air Reception Devices: Television Broadcast Service and Multichannel Multipoint Distribution Service*, Second Report and Order, 13 FCC Rcd. 23874, ¶ 13 (1998) ("OTARD Second R&O"). See also *Satellite Broadcasting and Communications Association, DIRECTV, LLC, and DISH Network L.L. Petition for Rulemaking*, MB Docket No. 12-1 (filed Apr. 18, 2012).

²⁴ 47 C.F.R. 1.4000(a)(1); See, e.g., *James S. Bannister Petition for Declaratory Ruling*, Declaratory Ruling, 24 FCC Rcd 9516 (2009).

valid and clearly articulated safety or historic preservation issues, in which case, the restrictions must be narrowly tailored, impose as little burden as possible, and be applied in a nondiscriminatory manner throughout the regulated area.²⁵ The City's WTS Guidelines have unreasonably impaired Towerstream's installation, maintenance, and use of new and existing fixed wireless antennas and have significantly increased the cost of deployment.

1. The WTS Guidelines.

The City's WTS Guidelines require Towerstream to obtain approval prior to constructing or replacing any of its wireless Internet antennas. The complicated application process for obtaining the requisite prior approval entails completion of all of the following steps:²⁶

- i. *5-Year Plan.* Before the Planning Department will process any antenna permitting forms or applications, companies must have a current 5-Year Plan on file. The 5-Year Plan must include competitively sensitive information such as a list of all proposed WTS sites for the next five years and detailed equipment information, including the type of technology, radio frequencies utilized, and types of consumer services such equipment will provide. Companies must file updates to the 5-Year Plans bi-annually.
- ii. *Building Permit Application.* All antennas are defined as a "structure" under the City's building code and must use the same application form and undergo the same procedures as new 30-story buildings. Plans submitted with the building permit application must include drawings stamped by a licensed engineer showing roof support calculations for each antenna. Building Permit applications are submitted to the Department of Building Inspection ("DBI") for approval, and must then be submitted to and approved by a number of other City agencies, including the San Francisco Fire Department, the San Francisco Department of Public Health. A completely separate application, signed by a licensed electrical contractor, must also be submitted for each site to DBI.
- iii. *Planning Department WTS Facility Application.* Based on the zoning district of the site and/or the size of the antenna, installation may be

²⁵ 47 C.F.R. § 1.4000(b).

²⁶ See, e.g., San Francisco Planning Department Antenna Permit How-To Guide (2012), <http://www.sf-planning.org/index.aspx?page=2820>.

permitted as of right, may need a Conditional Use Authorization, which can be issued only by a vote of the full San Francisco Planning Commission, or may be exempted from the Conditional Use process through a Planning Department administrative approval called a Letter of Determination of Accessory Use. Planning Department staff will decide on a case-by-case basis as to whether there is an exemption to a Planning Commission hearing for a particular site. Whether such hearing is required or not, each procedure requires applicants to complete a WTS application by which the Planning Department and/or Planning Commission review new installations or modifications to existing sites. Copies of the Planning Department's checklists for each type of application are attached hereto as **Exhibit D**.

Planning Department staff must then review the application and will work with the applicant in an informal negotiation as to the placement of each antenna and terms of City approval. If the Planning Department decides that a Conditional Use Permit Hearing is necessary, it will add three to four months to the permitting process and cost at least \$15,000.00 to \$20,000.00 in additional permit fees and consultant fees per location, not including the costs associated with the requisite future RF reports for each site.

- iv. *Construction Site Maps.* Permit applications must include a site map identifying the subject parcel, the Use District for the subject parcel and adjacent parcels, and the height and bulk designations for the subject block. In addition, applicants must provide a map of each construction site and full-size architectural plans of that include information such as the building height, roof or penthouse height, parapet wall height, and the dimensions of any existing and/or proposed WTS equipment.
- v. *Photo-simulations of antennas.* Photo-simulations must be submitted to document the proposed aesthetic impact of an installation. Based on the submitted plans, applicants must digitize the antennas, equipment cabinets, and any stealthing/screening component that would be visible from the street.
- vi. *Historic Preservation.*
 - 1. *Declaration of Intent.* A Declaration of Intent to comply with the National Historic Preservation Act by conducting a Section 106 review must be submitted for each site, whether or not the site is one that is an historic resource, or potential historic resource.
 - 2. Antenna permit applicants must submit information to the Planning Department as to whether the building is on any list of historic buildings and whether the building is listed on (or can potentially be listed on) City, State, or federal historic registers. If a building

is on such a list, the applicant must also submit information as to how to mitigate the aesthetic impacts of the antenna, whether or not there has been a determination that the proposed antenna will have a negative visual impact on a historical resource.

- vii. *Neighbor Notification and Meetings.* Neighbors and relevant community groups must be notified in advance of particular antenna locations and, in some cases, a public neighborhood meeting is also required. Neighbors and community groups may also challenge the issuance of permits, environmental determinations, and Conditional Use approvals, which further delays the permitting and installation process. An opponent may appeal any Conditional Use Approval to the Board of Supervisors. A single person may appeal any permit not approved through the Conditional Use process to the Board of Appeals. A single person may also appeal an environmental clearance to the Board of Supervisors. Under some circumstances, an antenna may have to be approved by the City's Historic Preservation Commission after approval by Commission staff.

After the City has determined that no Planning Commission approval is required (*i.e.*, that there will be no Conditional Use Permit Hearing), in many districts in which these antennas are placed, the City still sends notifications of the proposed antenna to neighbors. These notifications allow a single neighbor (or anyone else) to request a full hearing before the Planning Commission, even if the antennas or locations comply with the City Planning Code or other City ordinances.

- viii. *Project Implementation Report.* Project Implementation Reports ("PIRs") are emission reports, which must be filed, to demonstrate that each site is within FCC established thresholds for emissions. A separate report must be produced for each site and submitted with the permit application. Each emission report costs about \$900 per location. If a Conditional Use hearing is required, the City requires a third party verification of the emissions report, which costs an additional \$1400 per site. The PIRs must be updated every 2 years, on an indefinite basis. The PIRs must also be submitted to the local Department of Public Health.

2. Application and Enforcement of the WTS Guidelines Has Unreasonably Impaired Towerstream's Deployment of Antennas.

The enormous expense and time associated with the complex WTS application process has unreasonably impeded and delayed Towerstream's ability to install, maintain, and use its wireless broadband antennas. When Towerstream began providing wireless broadband service in San Francisco, it believed that federal law prohibited local governments from imposing

permitting requirements on Towerstream's antennas. As a result, Towerstream installed some of its antennas after obtaining only the necessary property interests or permissions and ensuring that its equipment was in compliance with federal RF limits, type acceptance, and certification standards.

The City, however, is requiring Towerstream to comply with the burdensome and confusing process and has imposed fines and instituted enforcement actions against Towerstream. Two departments, the Planning Department and the Department of Building Inspection, have the authority to issue notices of enforcement or violation and penalties. Within the Department of Building Inspection, there are also two separate divisions, the Building Division and the Electrical Division, that independently impose fines. Since the Planning Department and the Building Division and Electrical Division do not coordinate in any way, Towerstream has been subjected to numerous fines and received notices of enforcement and notices of violations from each City office, all with dramatically different compliance requirements and timeframes for the same locations.

Towerstream has spent an enormous amount of time charting enforcement notices, compliance deadlines, and correspondence from these three separate City departments. Specifically, since July 2012, Towerstream has received more than 50 notices alleging a violation of law from the Planning Department and approximately 12 notices in which the Planning Department found that an actual "violation" exists. Towerstream has received over 100 notices of violation from the Department of Building Inspection and its Building Division. The City also instructed Towerstream to immediately submit applications to obtain all of the above-referenced permits for its existing installations, and to submit a 5-Year Plan. Towerstream was also informed that failure to immediately respond would subject Towerstream

to heavy penalties and fees, including a \$250.00 administrative penalty for each day of violation per site as well as enforcement fees of \$1,179.00 per site, plus the cost of any additional accrued time and materials for the enforcement, investigation and abatement of the violations.²⁷ To date, Towerstream has already spent nearly \$108,000.00 on permitting and consultant fees just to resolve compliance issues (without yet spending any fees on permits to be submitted to the Planning Department), and the City has levied \$45,000.00 in penalties against Towerstream. The City is seeking to collect hundreds of thousands of dollars in more fines and penalties. To date, Towerstream's attempts to obtain a reasonable administrative approval process from the City has not yielded reliable clarity.²⁸

Towerstream has devoted substantial resources towards resolving the permitting issues associated with its existing antenna installations, and has even offered to redesign its antennas to ensure minimal visual impact. Since the permitting process outlined in the WTS Guidelines is so vague, however, Towerstream is at the complete mercy of the City and its Planning Department for direction and approval.²⁹ Furthermore, the City has notified Towerstream that all pending violations must be resolved prior to the approval and issuance of any new applications, and

²⁷ See San Francisco Planning Code §§ 176(c), 350(c), 351.

²⁸ For instance, pursuant to a July 3, 2013 Letter of Determination, all Towerstream antenna sites will still be subject to a determination of applicability by the Planning Department and public notice, both of which could result in a determination that a particular site requires a Conditional Use Application.

²⁹ The FCC has sought to address concerns regarding permitting delays. In an effort to ensure that state and local authorities do not impede the deployment of wireless facilities, the FCC has established a 90 day shot clock for co-location applications and a 150 day shot clock on tower siting applications. See *Shot Clock Declaratory Ruling*. The FCC also established a 30-day review period for local authorities to determine the completeness of a wireless facility siting request in order to “promote the timely deployment of innovative broadband and other wireless services.” *Shot Clock Order on Recon.* at ¶ 1.

therefore, any applications not related to the abatement of violation on the subject property will be placed on hold until further notice. Should the Commission not preempt the WTS Guidelines, Towerstream estimates having to spend millions of dollars on fees and fines, and anticipates an additional three-to-twelve month delay for approval for *each new antenna location* — delays that are truly untenable in the competitive broadband Internet industry.³⁰

The City has also taken other actions that have significantly delayed the permitting process and, in turn, Towerstream's deployment and use of wireless antennas. For example, a number of landlords seeking permits from the City for unrelated safety, maintenance and repair work on their buildings have been told by the Planning Department that their permits would not be issued until Towerstream has obtained removal permits and uninstalled its existing antennas. This overt City pressure has also caused some landlords to terminate or threaten to terminate existing leases with Towerstream. For some building owners, however, the Planning Department has randomly waived the removal permit requirement. This inconsistency has also caused a good deal of additional confusion, delay, and expense.

By obstructing the deployment of wireless Internet antennas, the WTS Guidelines impede robust competition in the San Francisco broadband market, and stand “as an obstacle to the accomplishment and full objectives of federal law to facilitate the availability of advanced communications services and to foster competition.”³¹ As such, the WTS Guidelines harm

³⁰ By contrast, the Department of Building Inspection has not held up the processing of permit applications submitted by property owners for unrelated work. In fact, the Department of Building Inspection has allowed Towerstream to apply for hundreds of such permits. However, issuance must await approval of the San Francisco Planning Department.

³¹ *Continental MO&O* at ¶ 49. Congress and the FCC have taken bold new steps to remove impediments to the deployment of wireless infrastructure. See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96 (2012) (“Spectrum Act”). In a *Notice of Proposed*

consumers throughout the City and County of San Francisco by denying them of the many benefits associated with a competitive broadband marketplace, which include “lower prices, better quality, and greater innovation to consumers.”³²

3. The WTS Guidelines Are Not Legitimate Public Safety Restrictions.

Although restrictions adopted and narrowly tailored for legitimate public safety or health reasons are permissible under OTARD, “the safety reason must be written in the text, preamble or legislative history of the restriction, or in a document that is readily available to antenna users.”³³ With respect to the WTS Guidelines, however, there is nothing in the record to

Rulemaking seeking comment on allocating new unlicensed spectrum as part of the implementation of the Spectrum Act, the FCC highlighted the significance of unlicensed spectrum as part of broadband deployment. Specifically, the Commission noted, “Wireless broadband services are in high demand by the public and that demand is expected to grow significantly in the coming years. Increasingly, U-NII devices have played a role in meeting some of that demand, particularly U-NII devices used for wireless local area networking and broadband access. The U-NII bands hold significant promise for helping to accommodate the needs of businesses and consumers for fixed and mobile broadband communications...”

Revision of Part 15 of the Commission’s Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band, Notice of Proposed Rulemaking, 28 FCC Rcd 1769, ¶ 15 (rel. Feb. 20, 2013). Acting Chairwoman Mignon Clyburn also noted that “Commission staff has been working diligently to improve our understanding about how all relevant aspects of the wireless market impact competitive options for consumers...We have also adopted a number of important rules or proposed policies in the areas of universal service reform, tower siting, data roaming, spectrum sharing, wireless backhaul, and of course, the allocation of more spectrum...to ensure the Commission is doing what it can to promote rapid deployment of more wireless broadband networks.” *Policies Regarding Mobile Spectrum Holdings*, Notice of Proposed Rulemaking, 27 FCC Rcd 11710, Statement of Commissioner Mignon L. Clyburn (2012).

³² “Connected on the Go: Broadband Goes Wireless: Report by the Wireless Broadband Access Task Force, GN Docket No. 04-163, pp. 13-14 (2005).

³³ *Over-the-Air Reception Device Rule Guide*, Federal Communications Commission, <http://www.fcc.gov/guides/over-air-reception-devices-rule> (updated Mar. 22, 2013).

demonstrate that they were adopted to achieve a valid health or safety objective. The only “safety” objective the City explicitly intended to address in the enactment of the WTS Guidelines was to address concerns relating to RF exposure.³⁴ The FCC, however, has exclusive authority over the regulation and resolution of RF safety, and as such, RF safety cannot be considered a “legitimate” safety objective under the OTARD Rules.³⁵

In 1999, the City vigorously contested the FCC’s authority to preempt state and local government regulation of RF emissions and customer-end antennas – however, in the *Competitive Networks Order*, the Commission expressly stated that the City was wrong and that the FCC does, in fact, have such authority.³⁶ Despite the FCC’s ruling, the City has not eased the WTS Guidelines since they were adopted in 1996, and continues to adopt resolutions and regulations based on the belief that RF emissions has are not adequately regulated by the federal government and have harmful health effects.³⁷

³⁴ See generally *WTS Guidelines*.

³⁵ *Competitive Networks Order on Reconsideration* at ¶ 11.

³⁶ *Competitive Networks Order* at ¶ 109, n. 227 (The Commission held that “Section 332(c)(7) expressly permits the Commission to regulate State or local government decisions of the siting of personal wireless service facilities on the basis of RF emissions safety.”).

³⁷ In 2010, the San Francisco Board of Supervisors passed a resolution asking the U.S. Environmental Protection Agency to further study the health effects of wireless facilities, asking the FCC to update its existing standards, and asking for the introduction of legislation in Congress to repeal the federal preemption of state and local regulatory restrictions based on RF emissions. See *Potential Health Impacts of Wireless Facilities*, San Francisco Board of Supervisors Resolution 102-10 (2010). In 2010, the City also passed an ordinance requiring wireless phone retailers to post warnings and disseminate fact sheets to customers about the dangers of RF energy emissions from cellular phones. The ordinance was subsequently struck down by the United States Court of Appeals for the Ninth Circuit. See *CTIA - Wireless Ass’n v. City & County of San Francisco*, 494 Fed.Appx. 752 (9th Cir. 2012), *petition for rehearing en banc denied*, Nos. 11-17707, 11-17773 (Feb. 27, 2013).

4. The WTS Guidelines Were Not Primarily Adopted For, or Narrowly Tailored to, Historic Preservation Purposes and Are Vague as to Historic Preservation Requirements.

The WTS Guidelines were not adopted to achieve a clearly articulated historic preservation objective. Although the WTS Guidelines do include historic preservation as a consideration in WTS facility siting, historic preservation cannot be considered a primary motivation for adoption. In fact, the Planning Commission Resolution adopting the WTS Guidelines did not reference historic preservation as a concern at all.³⁸ Furthermore, the WTS Guidelines and Planning Code are utterly devoid of directions or instruction on how to ensure compliance with historic preservation requirements. Since the WTS Guidelines do not provide any guidance, Towerstream has submitted correspondence explicitly seeking clarification on the historic review process for Wi-Fi antennas. Unfortunately, Towerstream has never received a response from the Planning Department.

Moreover, Towerstream's installation of Wi-Fi devices regulated under Part 15 of the Commission's rules does not constitute a federal undertaking subject to historic review pursuant to Section 106 of the National Historic Preservation Act. Accordingly, the City has no legitimate interest in attempting to ensure the completion of Section 106 review for unlicensed Wi-Fi devices.

³⁸ See *Planning Commission Resolution Adopting the WTS Guideline*, San Francisco Planning Commission Resolution 14182 – (1996) (“*WTS Resolution*”). The concerns referenced in the *WTS Resolution* included land use compatibility associated with noise of 24-hour facilities, interference with existing wireless transmission facilities and the corresponding harm to existing businesses, health issues relating to RF exposure, and urban design.

III. CONCLUSION

The FCC should move expeditiously to preempt the WTS Guidelines to provide relief to Towerstream under the OTARD Rule and Section 207 of the 1996 Act. The relief requested by Towerstream in this Petition, exemption from burdensome regulation of user fixed wireless devices less than one meter in diameter, fits squarely within the OTARD Rule and the authority of the FCC. Furthermore, the City's outdated seventeen year-old WTS Guidelines are an impediment to the provision of competitive wireless services in San Francisco and were not adopted or narrowly tailored to achieve legitimate public safety, health, or historic preservation objectives. Accordingly, Towerstream urges the Commission to declare that the WTS Guidelines violate OTARD and are therefore unenforceable.

Respectfully submitted,

TOWERSTREAM CORPORATION



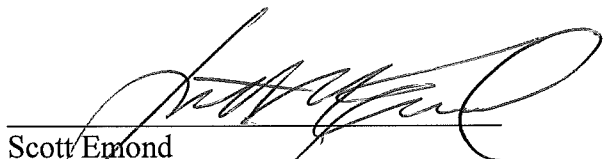
Donald L. Herman, Jr.
Gregory W. Whiteaker
Susan C. Goldhar Ornstein
Its Attorneys

Date: July 9, 2013


DECLARATION OF SCOTT EMOND

I, Scott Emond, do hereby declare under penalty of perjury the following:

1. I am the Director of Small Cell Acquisition and Deployment at Towerstream Corporation;
2. This Declaration is submitted in support of the foregoing Petition for Declaration and is submitted in accordance with the requirements of Section 1.4000 (b) of the Commission's Rules.
3. I declare under penalty of perjury that any and all allegations of fact contained in the foregoing Petition for Declaration Ruling are true and correct and to the best of my knowledge.



Scott Emond
Director of Small Cell Acquisition and Deployment



Date

CERTIFICATE OF SERVICE

I, Susan C. Goldhar Ornstein, an attorney at the law firm of Herman & Whiteaker, LLC, hereby certify that on this 9th day of July, 2013, a copy of the foregoing Petition for Declaratory Ruling, is being sent via U.S. mail, first class postage paid, to the following:

Office of the Mayor
City Hall
Room 200
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102



Susan C. Goldhar Ornstein

EXHIBIT A

Wireless Telecommunications Services Facilities Siting Guidelines

Planning Department
City & County of San Francisco
**Wireless Telecommunications Services (WTS)
Facilities Siting Guidelines
August 15, 1996**

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Planning Department Wireless Telecommunications Services Facilities Siting Guidelines

INTRODUCTION

During the last couple of years various project sponsors have submitted to the Planning Department (“the Department”) applications for the permitting of wireless telecommunication facilities. Because this technology was new and the Department had not established policies and guidelines to govern the placement of these particular uses, many were simply handled through the administrative permitting process as either principal or allowable accessory uses. Eventually, however, the number of applications for such uses proliferated dramatically and numerous such uses were contemplated within residential areas of San Francisco. The possibility of continued placement of the technology in various residential areas of San Francisco soon led residents to articulate various concerns. Concerns about health, safety and visual impacts were communicated to the Department, as well as many San Francisco legislators. The increase in the number of applications and the areas potentially affected by these uses, plus the legitimate concerns raised by the residents and the Department, compelled the Department to re-examine its informal procedures in light of applicable Planning Code provisions and to consequently require a Conditional Use Authorization for many of the applications.

Since a Conditional Use Authorization for many of the wireless telecommunication facilities required the approval of the Planning Commission (“the Commission”), the Commission, in connection with several applications for the installation of cellular telephone and personal communication systems, held extensive public hearings wherein many spoke against and in favor of such installations. As a result of those hearings, the Commission determined that, at the very least, the Department had to come forward, as quickly as possible, with comprehensive policies and guidelines to govern the siting of wireless telecommunication technology. The Commission opined that only through comprehensive guidelines and policies could the legitimate concerns and needs of the residents, the City, and the industry be addressed in a logical and balanced fashion. The Commission requested the comprehensive guidelines and policies to be incorporated as a Telecommunications Facilities Plan amendment of the Community Facilities Element of the City's General Plan.

The Department's efforts to prepare comprehensive policies and guidelines soon revealed that to treat comprehensively the siting of the entire spectrum of telecommunication technology was a monumental task, given the complexity of and rapid evolution of the telecommunication technology itself. Thus, to address effectively the immediate concerns over and the needs of technology already making its way through the Department's permitting process, it was decided to generate policies and guidelines on a “phased” basis. The first “phase” of the anticipated policies and guidelines is directed to the cellular mobile telephone and wireless data transmission technology. This document therefore attempts to accommodate the competing interests for that type of technology.

The policies and guidelines presented in this document, and endorsed by the Commission by Resolution No. 14182, will provide guidance to Department staff where administrative review is warranted and to the Planning Commission in their consideration of conditional use applications for such facilities. The policies and guidelines will inform Project Sponsors of the standards to be used by the Department and Commission in the review of any proposed cellular mobile telephone projects, wireless data communication facilities or other similar facilities regulated by the Federal Communications Commission (FCC) and all applications will be reviewed and measured by the same standards as presented herein. Substantive amendments to these standards are to be submitted to the Planning Commission for their endorsement and the amended standards will be made available to the public and prospective Project Sponsors as they are made. The application information requirements described in Section 10 of these Guidelines supplement the information required in the Department's Conditional Use application handout. The information required by the Department's Conditional Use application and the information required in Section 10 herein must be provided to the Department at the time the application is submitted. Non-substantive changes to the Guidelines, such as information required with submittals or types of facilities requiring Administrative Review, will be published as a Zoning Bulletin on an as-needed basis to clarify common questions or identify new interpretations. An example of a Zoning Bulletin for WTS Facility applications is shown in Section 12 of these Guidelines.

Again, it is important to note that due to legitimate logistical considerations, the policies and guidelines in this document (even though potentially applicable to other types of telecommunication technology) only address location policies and preferences, urban design policies and criteria, and sample conditions of approval for cellular mobile telephone technology, including Personal Communications Services (PCS), Enhanced Specialized Mobile Radio (ESMR) services, and other similar wireless technologies which feature similar equipment and/or share similar land use impacts and are regulated by the FCC, pursuant to the provisions of Section 209.6(b), 227(h) and (i), and other relevant sections of the Planning Code. These policies and guidelines do not, at this time, address similar policies, preferences and conditions of approval for AM or FM radio antennae towers, television antennae towers, personal pager microwave dishes, teleport satellite systems, or other similar facilities associated with Wireless Telecommunication Services. Those policies and guidelines will follow according to the mandate(s) of the Commission and will also be incorporated within a comprehensive Telecommunications Facilities Plan chapter of the Community Facilities Element of the City's General Plan.

Section 1. Background

Wireless telecommunications facilities such as radios and televisions have long played a vital role in San Francisco's communications network. Our police, fire and ambulance services have for the past few decades depended on radio receivers and transmitters and accompanying antennae and support structures, interspersed throughout the City, for emergency dispatch and response. AM and FM broadcast facilities keep the City's listeners tuned in to their radios, and many viewers still

depend on the airways for their television reception. Many businesses, such as taxi and repair services, use radio-dispatched vehicles to serve the City.

The technological advances made in this type of technology have also had a direct impact on the types of goods and services made available to the everyday consumer. For example, the advances in cordless phone, cellular phone and personal paging technology during the past fifteen years have made wireless telecommunications very much a part of many businesses and the lives of the general public. It is now common for businesses and individuals to perceive a need for access to wireless communications to stay in business, to expand their business, to provide personal convenience, or to feel assured of personal safety and the ability to communicate with business, government or family and friends on demand.

Public access to personal mobile communications began in the 1980s and quickly gained appeal among people who felt that they needed to be reached at any given time at any place. In 1992, there were approximately 10 million cellular telephone users across the United States, and by the end of 1994, that figure had grown to over 24 million. This figure does not include users of paging systems, Enhanced Specialized Mobile Radio (ESMR) such as radio-dispatched vehicles, or Personal Communications Services (PCS) which transmit voice, e-mail, video and data.

To satisfy the public's demand for services and to generate revenue, the Federal Communications Commission (FCC) has been and is presently in the process of auctioning licenses for additional broadband and narrow band frequencies servicing the new Personal Communications Services (PCS) technology which includes, in addition to the current analog voice transmission, digital voice transmission and video and data transmission capabilities. Based on anticipated sales of these licenses, San Francisco can reasonably anticipate about eight providers of cell phone and PCS services. Based on information currently available to the Department, each provider can be expected to require approximately 40 to 45 cell sites (individual antennae locations) throughout the City. As such, San Francisco can reasonably expect about 175 additional applications for the installations of mobile telephone facilities. Based on the anticipated numbers of applications by six providers, San Francisco can expect around 360 cell sites over the next 10 years. (A similar number of two-way paging companies using narrowband spectrum will likely seek to build systems in the City.) The exact number of additional installations which will be required for each provider throughout the City is unknown at this time. It is anticipated, however, that as the number of customers of each provider increases and use of their radio frequency increases within a particular geographic service area, there may be a need to place the antennae closer than previously anticipated to maximize capacity and, therefore, to service its customers properly. In the neighborhoods with greater number of callers, such as the Financial District and higher density residential districts, more antennae installations can be expected.

Research Sources

This report was research by Planning Department staff with the assistance of neighborhood representatives who provided comments, concerns, research papers and anecdotal testimony, written materials provided by industry sources, review of regulations and standards adopted by other jurisdictions, and interviews of City agency

representatives. A great deal of information was derived by a report prepared by the San Diego Association of Governments (SANDAG) and published in December 1995, entitled "Wireless Communications Facilities Issues Paper". A copy of the SANDAG report as well as these Guidelines are available for public review at the Main Public Library, government documents section, as well as at the Planning Department. For review of the Department's Telecommunications Library, please contact planner Susana Montaña at (415) 558-6421 or e-mail address Susana_Montana@CI.SF.CA.US. These Guidelines are also available on the ABAG (Association of Bay Area Governments) HomePage at <http://www.abag.ca.gov>.

Section 2. Public Concerns

Numerous residents, neighborhood groups, citywide civic groups and organizations, City agencies, and other interested parties have expressed concerns with WTS facilities in the City. Among the concerns expressed are:

Health and Safety

- ! Concern with long-term adverse health effects of electromagnetic radiation (EMR) and radio frequency radiation (RF) associated with 24-hour operation of WTS installations which are in close proximity to residential units or to vulnerable populations such as young children, frail elderly, ill persons or pregnant women;
- ! Dissatisfaction with current inconclusive research on long-term human health effects of exposure to EMR and RF emissions from WTS installations and lack of conclusive human epidemiological studies and findings regarding this exposure;
- ! Dissatisfaction with Federal safety standards for EMR due to perceived undue influence of telecommunications industry representation on the Boards that selected the FCC adopted standards;
- ! General skepticism regarding telecommunications industry claims of no adverse effects of WTS facilities and likening these claims to previous claims of no harmful effects from aerosol spray (to the ozone layer), of second-hand smoke, of lead paint, or of asbestos insulation; and
- ! Concern that if antennas are loosened by vandals or an earthquake, they can fall on passersby or the altered panel can "beam" a signal, and any associated EMR, toward a habitable unit.

Visual/Aesthetics

- ! Proliferation of antennae and "back up" equipment on a particular building which can be

viewed from the street and/or which impede views from adjacent residential units or public view corridors (antennae farms);

- ! Concern with potential visual clutter in certain neighborhoods where there may be many users and each carrier will want to install numerous antennae to increase the capacity of their system; and
- ! Concern that carriers will not remove visually intrusive WTS facilities that are obsolete or that they are not using for normal service.

Costs

- ! Concern that the industry should pay all the costs associated with City agency monitoring of health and safety conditions of approval as well as the costs of interdepartmental coordination of telecommunications policies and monitoring/enforcement activities;
- ! Concern that the industry should pay all costs associated with the City's Department of Public Health(or other appropriate City agency) to review scientific literature on health and safety issues related to WTS installations and to analyze and summarize that research and report to the Planning Commission and any other permitting City agency on an annual basis; and
- ! Concern that the industry should pay all the direct and indirect costs associated with the installation of telecommunications facilities in the City's right-of-way including the costs of street cuts and repair and maintenance of streets that have been altered for these installations.

In connection with the concerns identified above, many interested parties have requested the City to:

- ! Practice "prudent avoidance" and deny WTS facility applications until such time that conclusive scientific evidence shows that these facilities pose no harm to the public;
- ! Require carriers to indemnify the City for any adverse health effects associated with permitted WTS facilities that may in the future be proven, based on conclusive scientific research, to be harmful to humans; and
- ! In effect, declare a total moratorium on approving installations until there is a comprehensive "Master Plan" to address land use implications of the WTS technology.

Benefits

- ! It is vital to the City's long-term economic health that wireless communications systems are

developed throughout the City and are made accessible and affordable to the City's residents, businesses and visitors. These facilities can help local businesses to market their goods and services globally and to improve their productivity;

- ! The wireless communications industry is one of the fastest growing segments of the telecommunications industry, creating hundreds of jobs for local residents; and
- ! Wireless communications have proven invaluable in many emergencies, such as earthquakes, fires or floods. Public safety personnel rely on wireless phones to coordinate emergency services.

In connection with the public concerns and the position of the various Project Sponsors, the Commission has requested legal advice from the City Attorney as to whether the Commission has the power to preclude such uses/installations through a moratorium as requested by some members of the public. Based on the advice of counsel, the Commission has determined that both Federal and State law (as discussed below) allow reasonable regulation of the technology, but preclude blanket disapproval of projects. It is noted, however, that despite the Federal preemption of the February 8, 1996 Telecommunications Act, the City of Medina, Washington, on February 13, 1996, passed a Resolution imposing a six month moratorium on the issuance of permits for communication facilities in order to study issues related to the siting of these facilities (eg. to allow tall towers and to require co-location/sharing of the city's limited number of available sites). In May 1996, the United States District Court reviewed a request for an injunction on the city's moratorium submitted by a telecommunications carrier (Sprint) and the Court denied the request for an injunction because the six month moratorium would not cause "irreparable harm" and did not in other ways violate the Telecommunications Act.

The Planning Commission has also sought the input of the Department of Public Health (DPH) regarding health concerns and DPH has concluded that: "After thoroughly reviewing the available scientific data, DPH staff has concluded that the data do not indicate that exposures to RF radiation below the ANSI standard results in adverse health effects. Available scientific evidence supports the exposure levels recommended in the ANSI Standard. Further, other national and international standards, such as the NCRP, WHO, British, German, Finnish and Canadian Standards are consistent with and support the exposure levels recommended in the ANSI Standard." [DPH letter dated January 26, 1996, on file with the Planning Department].

In light of this advice, the Commission has decided to move forward with the review of outstanding permit applications related to this technology consistent with applicable law. However, in light of the concerns expressed by the public, the Commission urges the appropriate City authorities to empower the Department of Public Health, the Telecommunications Commission, or other appropriate City agency to continue to review scientific literature and research findings and to report to the Planning Commission on an annual basis any significant developments that could require the Commission and/or the City to revisit and/or amend these policies and guidelines.

In July 1996, the San Francisco Board of Supervisors passed Resolution 635-96 which urged the

Planning Commission to amend its WTS Guidelines to include more stringent facility location criteria and preferences. These Guidelines incorporate those recommendations. The Board also urged the Planning Commission to adopt a "moratorium" on the installation of WTS facilities within the "Disfavored Site" zoning districts until such time as a Telecommunications Plan amendment of the Community Facilities Element of the City's General Plan is adopted. The intent of the modifications presented in the August 1996 Guidelines is to address all concerns articulated by the Board of Supervisors and to implement measures designed to effect all their recommendations.

Section 3. Wireless Technology

Mobile phone and personal pager calls are transmitted through the air via radio waves at various frequencies. Cellular transmissions differ from television and radio transmission in that cellular depends on a network of small receiving and transmission stations (cell sites) spread out over the service area whereas television and radio rely on one tower to provide service throughout a large region.

Calls from cellular hand sets send radio signals to the closest cell site. Each cell site has a base station with a transmitter and receiver. Each base station communicates with the company's switching office to send the signal to a "hard wired" phone or send the signal to another mobile phone through a series of cell sites. As a mobile caller moves about the service area, the signals are "handed off" to the nearest cell site. Microwave radio frequencies are used to coordinate the switching of signals among the cell sites. The radio signals from the cell site base station is directed toward the adjacent cell sites in a beam that is relatively narrow in the vertical plane. The beam must be uninterrupted by buildings or other obstructions, that is, it must have "line of sight" transmission to the next cell site.

In empty space, radio waves spread at the same speed as light. To create radio waves a transmitter must send pulses at an extremely fast rate--from many thousands to millions of cycles a second. A single wave is called a cycle. Frequencies are stated in cycles a second, or hertz. Thus, a frequency of one kilocycle a second, or one kilohertz, is 1,000 waves a second. One megacycle a second, or one megahertz (MHz) is one million waves a second. Waves of different lengths can cross or even travel along the same lines without mixing. Thus, many stations can operate in the same region without interference if their frequencies are different. The government insures that they will be different by giving exclusive use of a separate, specific frequency to each station in a region.

The cellular phone industry is limited by the Federal Communications Commission (FCC) to 45 MHz of radio spectrum bandwidth, which without reuse, would limit each company to 396 frequencies or voice channels. In order to increase calling capacity, these low power facilities "reuse" frequencies on the electromagnetic spectrum.

Historically, cellular phones have used analog transmission signals. In the analog technology, voice messages are electronically replicated and amplified as they are carried from the

transmitting antenna to the receiving antenna. A problem with this technology is that the amplification procedure tends to pick up "noise", sometimes making the message difficult to hear. In order to diminish this noise and to provide greater capacity per channel, the cellular industry is beginning to switch to digital transmission signals. In the digital technology, voice messages are converted into digits (zeros and ones) that represent sound intensities at specific points in time. Because natural pauses in conversation are eliminated, more calling capacity becomes available from the same amount of spectrum and the background noise of analog calls is eliminated. However, due to the digital technology's higher frequencies on the electromagnetic spectrum, the digital cell phone system (Personal Communications Systems-PCS) will have a smaller radii than cellular sites and will require more transmission sites than the analog cellular system. Based on projections by the current service providers, San Francisco can expect a total of approximately 300 cell sites over the next ten years.

In a highly dense city like San Francisco, cell sites will tend to be spaced closer together than in suburban or rural areas due to the fact that there are more people, thus more potential wireless users. In San Francisco, the pattern of cell development will consist of numerous small cell sites in the downtown and commercial areas and fewer large cell sites in more residential and open space areas. As more people demand wireless service, there will be the need for additional sites to handle the calls.

A wireless network for San Francisco has two primary functions. First, to provide the necessary coverage for the entire city. Second, to provide the necessary capacity to satisfy the demand for calls at any one time throughout the entire city. Traffic jams on the radio waves for cellular phone use would discourage the growth of the industry and the development of more advanced technology and could disable local emergency communications systems. The dual requirements of coverage and capacity necessitate the need for multiple low-powered sites throughout San Francisco.

Coverage sites expand service in large areas or in areas with difficult terrain and allow users to make and maintain calls as they travel between calls. *Capacity* sites increase the number of calls when the surrounding sites have reached their practical channel limit.

Sites must be located throughout the City so that continuous and seamless coverage and adequate coverage in every neighborhood will be ensured. Currently, each wireless company licensed to provide service in San Francisco will require sites at locations throughout the City.

Digital wireless facilities will have higher calling capacities than analog cellular cell sites. However, due to the higher frequencies on the electromagnetic spectrum (1,850 to 2,200 MHz versus 800 to 900 MHz), each PCS cell site will cover a smaller area. [Please also refer to the report entitled "Wireless Communications Facilities Issues Paper" published in December 1995 by the San Diego Association of Governments (SANDAG) available at the Main Public Library, government documents section, or at the Planning Department.]

Section 4. Regulatory Framework

WTS facilities are regulated at the federal, state and local level.

Federal Law

Federal Communication Commission

The Federal Communications Commission (FCC) is an independent federal regulatory agency which answers directly to Congress. Established by the Communications Act of 1934, the FCC is charged with regulating interstate and international communications by radio, television, wire, satellite and cable. The Wireless Telecommunications Bureau (WTB) handles all FCC domestic wireless telecommunications programs and policies, except those involving satellite communications. Wireless telecommunications services include cellular telephones, Enhanced Specialized Mobile Radio (ESMR), personal paging, personal communication services (PCS), public safety, and other commercial and private radio services. The WTB regulates wireless telecommunications providers and licenses and serves as the FCC's principal policy and administrative resource with regard to federal auctions for the private use of public air waves. Portions of the frequency spectrum are allocated to specific uses (such as TV broadcast or cellular), and specific frequencies within that part of the spectrum are assigned to licensed operators.

Section 332 of the 1934 Act was revised by Congress in 1993 to refine federal regulatory policy governing commercial mobile radio services ("CMRS"), such as cellular companies, to ensure the development of an efficient federally regulated, competitive market. In revising Section 332, Congress sought to ensure regulatory parity among all CMRS providers because "the disparities in the current regulatory scheme [e.g. private mobile carriers are exempted from state and federal regulation of rates and entry while common carrier mobile services are not] could impede the continued growth and development of commercial mobile services." The Senate expressly found in its version of the bill that "State regulation can be a barrier to the development of competition in this market" and that "uniform national policy is necessary and in the public interest". The FCC has noted that the 1993 revisions make clear that "Congress intended . . . to establish a national regulatory policy for CMRS, not a policy that is balkanized state-by-state." This national policy is designed to "foster the growth and development of mobile services that, by their nature, operate without regard to state lines as an integral part of the national telecommunications infrastructure."

The Act reserves to the states regulatory authority over "other terms and conditions." The House Report on the 1993 revisions specifically refers to "facilities siting issues (e.g., zoning)" as such "terms and conditions" within the state's purview.

1996 Federal Telecommunications Act

With the potential economic impact of the WTS industry on both the national economy and federal

treasury, Congress, in the recently passed Telecommunications Bill, has further deregulated the industry in order to promote the availability of competing and affordable services. President Clinton signed the bill into law in February 1996.

Section 704 of the Act is entitled National Wireless Telecommunications Siting Policy. This Section, while preserving the local jurisdiction's control over the siting process, sets forth certain important limitations. States and localities cannot unreasonably discriminate among providers of various services, and they cannot take action that prohibits or has the "effect" of prohibiting the provision of wireless services. The legislative history of the bill specifically provides that "it is in the intent of this section that bans or policies that have the effect of banning personal wireless services or facilities not be allowed and that decisions be made on a case-by-case basis." States and localities must act on siting requests "within a reasonable period of time", taking all relevant factors into consideration. Determinations to deny wireless facilities must be in writing and supported by substantial evidence.

The 1996 Act prohibits States and localities from denying siting on the basis of Radio Frequency Radiation (RF) emissions so long as such facilities comply with the FCC's regulations concerning such emissions. The FCC regulations currently accept the American National Standards Institute (ANSI) Standards as the acceptable level of Electromagnetic Radiation (EMR) emissions for cellular phone, radio-dispatched mobile services (ESMR) and personal communications services (PCS) facilities.

The Act creates a cause of action for parties adversely effected by a locality's decision inconsistent with these provisions, and the Courts are directed to hear and decide such action on an expedited basis.

Safety Standards

The FCC requires all transmitting facilities that it licenses to comply with the ANSI Standards for human exposure to radio frequency (RF) electromagnetic fields. The ANSI standard is considered a "consensus standards," agreed upon by committees composed of university, telecommunications industry and government representatives. The FCC currently requires cellular, ESMR and PCS providers to comply with ANSI Standards for radio frequency emissions as a condition of the license. The Act prohibits local jurisdictions from imposing more stringent safety standards than that accepted by the FCC.

Power density is a means of determining the level of exposure to RF and EMF emissions. Measurements of equipment can assure compliance with existing exposure standards. The current ANSI Standard recommends general public exposure to EMR not to exceed 550 microwatts per square centimeters at the 800 MHz frequency for exposure of 30 minutes or more; of 567 microwatts per sq.cm. for 30 minutes or more at the 850 MHz frequency; and 600 microwatts per sq. cm. for 30 minutes or more at the 900 MHz frequency. By comparison, a 110 watt light bulb emits a power density of EMR of approximately 200 microwatts per sq.cm. at a distance of six feet.

State Level

Although the Federal government controls the sale and use of the airwaves, States retain jurisdiction over other terms and conditions, including facility siting issues. Applicable State law places constraints on a local jurisdiction's exercise of its police power over WTS facilities.

The California Public Utility Commission (CPUC) has jurisdiction over the provision of many utility services, including wireless telephone. The CPUC has broad powers to regulate safety and standards of service. Enhanced Special Mobile Radio (ESMR) licensees operate private systems, over which the CPUC has no jurisdiction pursuant to federal legislation.

The standard applied by the CPUC in issuing a Certificate of Public Convenience and Necessity ("CPC&N") required to operate a cellular system is whether the proposed facilities will serve the public convenience and necessity.

There was much confusion concerning the interplay between the CPUC's regulatory authority and local zoning when cellular systems were first authorized and constructed in the early 1980s. Some providers took the view that the issuance by the CPUC of a CPC&N eliminated the need to obtain local permits. The issue was resolved with the CPUC's issuance of General Order ("GO") 159, which specifically requires the provider to obtain permits from the local jurisdiction, and provides an appeal mechanism if an accommodation cannot be reached.

Early in the development of the cellular system, the CPC&N's expressly authorized specific sites. In the case where the PUC has approved a specific site in an application for a CPC&N, the local jurisdiction cannot refuse to issue necessary permits, though it may attach conditions as long as those conditions do not render the site infeasible.

Today, it is much more likely the case that a cellular provider is seeking a permit for a new facility not specified in its CPC&N, but within the geographic area it is mandated by its' FCC license to serve. In such cases the provider must apply to the local jurisdiction for needed permits. By providing a preemptive appeal as set forth in GO 159, however, the CPUC assures that the public convenience and necessity will not be frustrated by local permit procedures which may prohibit or unreasonably restrict needed cellular facilities.

Local Level

The San Francisco Planning Code allows communication utilities such as commercial wireless transmitting, receiving or relay facilities, such as radio, television, paging or cellular antennas and base stations, to be located in various parts of the City. Such facilities are allowed as a Principal Use in Commercial and Industrial Districts when the facility meets certain height and distance from residences criteria and allows their installation as a conditional use in these districts if they do not meet those criteria. In addition, antennas are allowed as a conditional use in Residential and mixed Residential-Commercial Districts.

The Planning Department and Planning Commission has relied on this process of

administrative review of antennas in some Districts and Planning Commission Conditional Use review of antennas in other Districts for decades. However, with the proliferation of such facilities in the past year and the anticipation of a greater number of applications in the near future, the land use implications of such facilities have changed and require greater scrutiny and regulation.

Early in the 1950's tall towers were required to transmit television and radio waves and small antennas were required on buildings to receive these waves for individual customers. In the 1970's, satellite dish antennas were required to transmit or receive radio, television and electronic data from homes and businesses to distant receiving or transmission stations. Now, in the 1990's, very few tall radio and television towers are required in the City. Numerous satellite dish antennas are needed by businesses to transmit data to off-site facilities or to send their product electronically to the next contractor or to the customer. For example, desktop publishers transmit their finished copy electronically through the air waves to printing companies in the Mid-West. More often, companies will send their product to their customer electronically through fiber optic "hard wires" or coaxial wire transmission lines. Cable television is commonplace in homes throughout the City and cable/digital radio is gaining in popularity. In the next few years, it can be expected that most businesses and many residents will be using both hard wire electronic communication systems (computers, facsimile machines, cable television and radio) and wireless communication systems (cellular phones, pagers, satellite dish radio and television, facsimile and video communications, etc.). The number, size, location and types of wireless communication facilities, including antennas, will change dramatically over the next decade. The trends indicate that the facilities will become more numerous and smaller over time.

The land use implications for these wireless communications facilities, including PCS antennas, generally reflect the same concerns addressed over the years by the Planning Department and Planning Commission, including:

- ! Land use compatibility with residential uses regarding noise associated with 24-hour operation of the facility;
- ! Land use compatibility with other transmission facilities such that new systems do not interfere with existing facilities and harm existing businesses;
- ! Health concerns associated with potential exposure to Electromagnetic Radiation and Radio Frequency radiation;
- ! Urban design concerns related to visual obstruction, view blockage, and compatibility with architectural character of the building and neighborhood;
- ! Facilitating economic development and vitality of businesses in the City which depend on these technologies;

- ! Create new job opportunities for San Franciscans; and
- ! Providing sufficient facilities to serve residents, visitors and workers with the technological amenities they desire for modern livability (such as television, radio, cell phone and beepers).

Section 100.2(g) of the **June 1954** Planning Code allowed "wireless transmission towers" as a Conditional Use in Residential [R-1, R-2, R-3, R-4 and R-5] Districts and in Commercial [C-1, C-2, and C-3--Sec. 111.2(c)] Districts. In 1954, antennas were lumped into the same land use category as utility installations, public service facilities, landing fields for aircraft, and railroads. The 1954 Code allowed antennas as a Principal Use in Industrial M-1 and M-2 Districts and included them in the same land use category as landing fields for aircraft, railroad facilities and steam power plants. The "wireless transmission towers" of the 1950's featured tall steel towers for television and radio wave transmission and reception. There were very few constructed throughout the City.

The **1974** Planning Code continued the 1954 Code provisions for wireless transmission towers. Section 201.2 of the 1974 Planning Code continued to lump antennas into the land use category of utility installation, public service facility, landing field for aircraft, and railroad facilities for Residential Districts. However, the Commercial and Industrial Districts received a new category under Section 227(h) of "wireless transmission facility". The 1974 Planning Code required Conditional Use authorization for antennas in Residential, Residential-Commercial, and Commercial Districts and allowed them as a Principal Use in Industrial (M-1 and M-2) Districts.

Section 209.6 (b) of **the current** San Francisco City Planning Code (1985 to date) allows communication facilities, such as transmitting and receiving antennae, as a Conditional Use in Residential and mixed Residential-Commercial Districts. Receiving-only antennae have been deemed by the Zoning Administrator as an "accessory use" to the building occupant. Private carrier owned and operated receiving and transmitting facilities are deemed by the Zoning Administrator to be a separate commercial establishment subject to the applicable zoning regulations as described herein.

Section 227(h) of the Planning Code also allows "commercial wireless transmitting, receiving or relay facilities, including towers, antennae, and related equipment for the transmission, reception, or relay of radio, television, or other electronic signals" as a Principal use in Commercial and Industrial Districts if certain height and distance to residential uses criteria are met. Section 227(i) of the Code allows these facilities in Commercial and Industrial Districts as a Conditional Use if the criteria and provisions of Section 227(h) cannot be met.

Article 7 and 8 of the Planning Code requires Conditional Use authorization for commercial wireless transmitting, receiving or relay facilities in Neighborhood Commercial and Mixed Use (Chinatown and South of Market) Districts.

Article 9 (Mission Bay) allows communication facilities, as defined by Section 209.6(b), as a principle use in the Moderate Density and High Density Residential Districts and prohibits them in the Lower Density Residential District. Section 943 describes how rooftop WTS facilities should be screened from view. Article 9 allows WTS facilities as a conditional use in Mission Bay Neighborhood Commercial Districts and allows them as a principle use in the Mission Bay Office and Commercial-Industrial Districts. They are not permitted in the Mission Bay Hotel District.

WTS facilities owned and operated by a private carrier on a public property which lies within a P-Public District are permitted only as a conditional use pursuant to Section 234.2(a) of the Planning Code. Publicly-owned and operated WTS facilities on public property in P Districts have been deemed by the Zoning Administrator to be a public use permitted as a principal use, pursuant to Section 234 of the Planning Code. However, any change of use on a public property or a public right-of-way, including the installation of a WTS facility, requires a finding of consistency with the City's General Plan by the Planning Commission or, through administrative review, by the Director of Planning or Zoning Administrator (General Plan Referral process). Certain conditions of approval can be attached to a finding of consistency with the General Plan by the Planning Commission or the Department as well as through the Building Permit Application review of Section 101.1 of the Planning Code (Prop. M findings) process.

In addition, Section 260(b)(2)(I) of the Planning Code exempts towers and antennas from the height limitations of a particular zoning district although it does not exempt the "back up" equipment (receiving, transmitting, power supply, cooling/air conditioning equipment generally located within one box, room or shelter). All back-up equipment must be located below the legislated height limit or, if located on a building which already exceeds the height limit, the equipment must be located below the parapet of the building and must be set back such that the equipment is not viewed from the street.

Local businesses and residents will demand new technologies. These new technologies will require new criteria for the siting of wireless communication facilities. As these arise, new siting policies and measures to mitigate potential adverse affects of new WTS technologies should be adopted as standards for Planning Department administrative review and for Planning Commission Conditional Use review.

Section 5. General Plan Policies Relevant to Wireless Telecommunication Services

Although the types of WTS facilities that are the subject of these Guidelines did not exist when the City's General Plan was last amended in whole in 1988, many of the Plan policies are relevant to the development of siting criteria and policies for WTS facilities. The most relevant sections are found in the Urban Design, Commerce and Industry and Residence Elements. Suggested policies for WTS Facilities (see page 24 of these Guidelines), once fully refined, could be included within the Community Facilities Element of the General Plan.

Urban Design Element

The Urban Design Element is concerned both with development and with preservation. It is a concerted effort to recognize the positive attributes of the city, to enhance and conserve those attributes, and to improve the living environment where it is less than satisfactory. The Plan is a definition of quality, a definition based upon human needs.

OBJECTIVE 1 EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Image and Character

POLICY 1 Recognize and protect major views in the city, with particular attention to those of open space and water.

POLICY 3 Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 2 CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Natural Areas

POLICY 1 Preserve in their natural state the few remaining areas that have not been developed by man.

POLICY 2 Limit improvements in other open spaces having an established sense of nature to those that are necessary, and unlikely to detract from the primary values of the open space.

Richness of Past Development

POLICY 4 Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

POLICY 5 Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

POLICY 6 Respect the character of older development nearby in the design of new buildings.

Street Space

POLICY 8 Maintain a strong presumption against the giving up of street areas for private ownership or use, or for construction of public buildings.

POLICY 9 Review proposals for the giving up of street areas in terms of all the public values that streets afford.

Every proposal for the giving up of public rights in street areas, through vacation, sale or lease of air rights, revocable permit or other means, shall be judged with the following criteria as the minimum basis for review:

a. No release of a street area shall be recommended which would result in:

(1) Detriment to vehicular or pedestrian circulation;

- (2) Interference with the rights of access to any private property;
 - (3) Inhibiting of access for fire protection or any other emergency purpose, or interference with utility lines or service without adequate reimbursement;
 - (4) Obstruction or diminishing of a significant view, or elimination of a viewpoint; industrial operations;
 - (5) Elimination or reduction of open space which might feasibly be used for public recreation;
 - (6) Elimination of street space adjacent to a public facility, such as a park, where retention of the street might be of advantage to the public facility;
 - (7) Elimination of street space that has formed the basis for creation of any lot, or construction or occupancy of any building according to standards that would be violated by discontinuance of the street;
 - (8) Enlargement of a property that would result in (i) additional dwelling units in a multi-family area; (ii) excessive density for workers in a commercial area; or (iii) a building of excessive height or bulk;
 - (9) Reduction of street space in areas of high building intensity, without provision of new open space in the same area of equivalent amount and quality and reasonably accessible for public enjoyment;
 - (10) Removal of significant natural features, or detriment to the scale and character of surrounding development.
 - (11) Adverse effect upon any element of the Master Plan or upon an area plan or other plan of the Department of City Planning; or
 - (12) Release of a street area in any situation in which the future development or use of such street area and any property of which it would become a part is unknown.
- b. Release of a street area may be considered favorably when it would not violate any of the above criteria and when it would be:
- (1) Necessary for a subdivision, redevelopment project or other project involving assembly of a large site, in which a new and improved pattern would be substituted for the existing street pattern;
 - (2) In furtherance of an industrial project where the existing street pattern would not fulfill the requirements of modern industrial operations.
 - (3) Necessary for a significant public or semi-public use, where the nature of the use and the character of the development proposed present strong justifications for occupying the street area rather than some other site;
 - (4) For the purpose of permitting a small-scale pedestrian crossing consistent with the principles and policies of The Urban Design Element; or
 - (5) In furtherance of the public values and purposes of streets as expressed in The Urban Design Element and elsewhere in the Master Plan.
- POLICY 10 Permit release of street areas, where such release is warranted, only in the least extensive and least permanent manner appropriate to each case.

OBJECTIVE 4 IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY FUNDAMENTAL PRINCIPLES FOR NEIGHBORHOOD ENVIRONMENT POLICIES FOR NEIGHBORHOOD ENVIRONMENT

Health and Safety

POLICY 14 Remove and obscure distracting and cluttering elements.

Signs are another leading cause of street clutter. Where signs are large, garish and clashing they lose their value as identification or advertising and merely offend the viewer. Often these signs are overhanging or otherwise unrelated to the physical qualities of the buildings on which they are placed. Signs have an important place in an urban environment, but they should be controlled in their size and location.

Other clutter is produced by elements placed in the street areas. The undergrounding of overhead wires should continue at the most rapid pace possible, with the goal the complete elimination of such wires within a foreseeable period of time. Every other element in street areas, including public signs, should be examined with a view toward improvement of design and elimination of unnecessary elements.

Commerce and Industry Element:

GOALS

The objectives and policies are based on the premise that economic development activities in San Francisco must be designed to achieve three overall goals:

1. **Economic Vitality:** The first goal is to maintain and expand a healthy, vital and diverse economy which will provide jobs essential to personal well-being and revenues to pay for the services essential to the quality of life in the city.
2. **Social Equity:** The second goal is to assure that all segments of the San Francisco labor force benefit from economic growth. This will require that particular attention be given to reducing the level of unemployment, particularly among the chronically unemployed and those excluded from full participation by race, language or lack of formal occupational training.
3. **Environmental Quality:** The third goal is to maintain and enhance the environment. San Francisco's unique and attractive environment is one of the principal reasons San Francisco is a desirable place for residents to live, businesses to locate, and tourists to visit. The pursuit of employment opportunities and economic expansion must not be at the expense of the environment appreciated by all.

These goals are interrelated and provide a perspective for evaluating future development issues in the city. All projects should be evaluated against all three goals in determining costs and benefits to the city's present and future population. The objectives and policies that follow seek to set a course for the city by which all three goals can be attained.

OBJECTIVES AND POLICIES GENERAL / CITYWIDE

OBJECTIVE 1 MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

POLICY 1 Encourage development which provides substantial net benefits and minimizes undesirable consequences.

Discourage development which has substantial undesirable consequences that cannot be mitigated.

POLICY 2 Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

A critical aspect of development management is to mitigate negative impacts created by new development: economic, aesthetic, physical, environmental, and social.

To ensure that commercial and industrial activities do not detract from the environment in which they locate, and may in fact benefit their surroundings, performance standards should be applied in evaluating new developments. The policies of the Master Plan provide many of the standards to be used in evaluating development proposals. Other standards are found in various city ordinances and State and Federal laws. As necessary these standards should be reformed and additional standards developed.

OBJECTIVE 2 MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

POLICY 1 Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

POLICY 2 Seek revenue measures which will spread the cost burden equitably to all users of city services.

POLICY 3 Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

OBJECTIVE 3 PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

POLICY 1 Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

POLICY 2 Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

POLICY 3 Emphasize job training and retraining programs that will impart skills necessary for participation in the San Francisco labor market.

POLICY 4 Assist newly emerging economic activities.

INDUSTRY

OBJECTIVE 4 IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

POLICY 1 Maintain and enhance a favorable business climate in the city.

POLICY 2 Promote and attract those economic activities with potential benefit to the City.

Downtown Area Plan.

SPACE FOR COMMERCE OBJECTIVES AND POLICIES

OBJECTIVE 1 MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY

LIVING AND WORKING ENVIRONMENT.

OBJECTIVE 2 MAINTAIN AND IMPROVE SAN FRANCISCO'S POSITION AS A PRIME LOCATION FOR FINANCIAL, ADMINISTRATIVE, CORPORATE, AND PROFESSIONAL ACTIVITY.

OBJECTIVE 3 IMPROVE DOWNTOWN SAN FRANCISCO'S POSITION AS THE REGION'S PRIME LOCATION FOR SPECIALIZED RETAIL TRADE.

OBJECTIVE 4 ENHANCE SAN FRANCISCO'S ROLE AS A TOURIST AND VISITOR CENTER.

OBJECTIVE 5 RETAIN A DIVERSE BASE OF SUPPORT COMMERCIAL ACTIVITY IN AND NEAR DOWNTOWN.

OBJECTIVE 12 CONSERVE RESOURCES THAT PROVIDE CONTINUITY WITH SAN FRANCISCO'S PAST.

POLICY 1 Preserve notable landmarks and areas of historic, architectural, or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

POLICY 2 Use care in remodeling significant older buildings to enhance rather than weaken their original character.

OBJECTIVE 13 CREATE AN URBAN FORM FOR DOWNTOWN THAT ENHANCES SAN FRANCISCO'S STATURE AS ONE OF THE WORLD'S MOST VISUALLY ATTRACTIVE CITIES.

POLICY 3 Create visually interesting terminations to building towers.

OBJECTIVE 14 CREATE AND MAINTAIN A COMFORTABLE PEDESTRIAN ENVIRONMENT.

POLICY 1 Promote building forms that will maximize the sun access to open spaces and other public areas.

POLICY 2 Promote building forms that will minimize the creation of surface winds near the base of buildings.

OBJECTIVE 15 TO CREATE A BUILDING FORM THAT IS VISUALLY INTERESTING AND HARMONIZES WITH SURROUNDING BUILDINGS.

POLICY 1 Ensure that new facades relate harmoniously with nearby facade patterns.
When designing the facade pattern for new buildings, the pattern of large nearby existing facades should be considered to avoid unpleasant juxtapositions. Incongruous materials, proportions, and sense of mass should be avoided.

As a general rule, facades composed of both vertical and horizontal elements fit better with older as well as most new facades.

POLICY 5 Encourage the incorporation of publicly visible art works in new private development and in various public spaces downtown.

Public Art:

- Art in the public right-of-way is strongly encouraged throughout the downtown area. Art installations might range from sculptures, sidewalk inlays, and kiosk displays to performance art, dance pieces, and temporary installations.
- Empty storefronts should be utilized for temporary art installations to enliven the streetscape.

NEIGHBORHOOD COMMERCE

OBJECTIVE 6 MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

- POLICY 1 Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.
- POLICY 2 Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.
- POLICY 3 Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.
- POLICY 7 Promote high quality urban design on commercial streets.

URBAN DESIGN GUIDELINES

The following guidelines for urban design are intended to preserve and promote positive physical attributes of neighborhood commercial districts and facilitate harmony between business and residential functions. The pleasant appearance of an individual building is critical to maintaining the appeal and economic vitality of the businesses located in it, as well as of the whole neighborhood commercial district. An individual project's building design and site layout should be compatible with the character of surrounding buildings and the existing pattern of development in neighborhood commercial districts.

In designing a new development or evaluating a development proposal, the following criteria should be considered:

- Overall district scale;
- Individual street character and form;
- Lot development patterns;
- Adjacent property usage, especially buildings historical, cultural or architectural importance;
- Proposed site development and building design;
- Handicapped access;
- Potential environmental impacts; and
- Feasible mitigation measures.

Architectural Design

- The essential character of neighborhood commercial districts should be preserved by discouraging alterations and new development which would be incompatible with buildings which are of fine architectural quality and contribute to the scale and character of the district. The details, material, texture or color of existing architecturally distinctive buildings should be complemented by new development.
- Existing structures in sound or rehabilitable condition and of worthwhile architectural character should be reused where feasible to retain the unique character of a given neighborhood commercial district.
- The design of new buildings, building additions and alterations, and facade renovations should reflect the positive aspects of the existing scale and design features of the area. Building forms should complement and improve the overall neighborhood environment.

- Building design which follows a standardized formula prescribed by a business with multiple locations should be discouraged if such design would be incompatible with the scale and character of the district in which the building is located.

Materials

- The materials, textures and colors of new or remodeled structures should be visually compatible with the predominant materials of nearby structures. In most neighborhood commercial districts, painted wood, masonry and tiles combined with glass panes in show cases, windows and doors are the most traditional and appropriate exterior wall materials.

Details

- Individual buildings in the city's neighborhood commercial districts are rich in architectural detailing, yet vary considerably from building to building, depending upon the age and style of their construction. Vertical lines of columns or piers, and horizontal lines of belt courses or cornices are common to many buildings as are moldings around windows and doors. These elements add richness to a flat facade wall, emphasizing the contrast of shapes and surfaces.
- A new or remodeled building should relate to its surrounding area by displaying compatible proportions, textures, and details. Nearby buildings of architectural distinction can serve as primary references. Existing street rhythms should also be continued on the facade of a new building, linking it to the rest of the district.

Rooftop Mechanical Equipment

- Rooftop mechanical equipment which may be visually obtrusive or create disturbing noises or odors should be located away from areas of residential use and screened and integrated with the design of the building.

Signs

- The character of signs and other features attached to or projecting from buildings is an important part of the visual appeal of a street and the general quality and economic stability of the area. Opportunities exist to relate these signs and projections more effectively to street design and building design. Neighborhood commercial districts are typically mixed-use areas with commercial units on the ground or lower floors and residential uses on upper floors. Sign sizes and design should relate and be compatible with the character and scale of the building as well as the neighborhood commercial district. As much as signs and other advertising devices are essential to a vital commercial district, they should not be allowed to interfere with or diminish the livability of residences within the neighborhood commercial district or in adjacent residential districts. Signs should not be attached to facades at residentially-occupied stories nor should sign illumination shine directly into windows of residential units.

POLICY 8 Preserve historically and/or architecturally important buildings or groups of buildings in neighborhood commercial districts.

GOVERNMENT, HEALTH AND EDUCATION SERVICES

OBJECTIVE 7 ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL AND REGIONAL CENTER FOR GOVERNMENTAL, HEALTH, AND EDUCATIONAL SERVICES.

POLICY 1 Promote San Francisco, particularly the civic center, as a location for local, regional, state and federal governmental functions.

Residence Element

NEIGHBORHOOD ENVIRONMENT

OBJECTIVE 12 TO PROVIDE A QUALITY LIVING ENVIRONMENT.

POLICY 1 Assure housing is provided with adequate public improvements, services and amenities.

RESIDENTIAL PROJECTS

Exterior Appearance

- Design new and substantially altered buildings in a manner which conserves and protects neighborhood character (See "Residential Design Guidelines", Department of City Planning, November 2, 1989 for more specific guidelines and illustrations.)
- Relate the form and architectural character of new and substantially altered buildings to the general scale and character of surrounding buildings.

Environmental Factors

(Sunlight, topography, noise, and climate.)

- Expose all units to natural light.
- Insulate units from the intrusion of exterior and interior noise.
- Apply energy conservation measures in the design of the building.

Community Facilities Element

The Community Facilities Element contains no relevant policies at this time. However, it is anticipated that by June 30, 1998 a Telecommunications Facilities Master Plan could be incorporated within the Community Facilities Element of the City's General Plan.

Community Safety Element

OBJECTIVES AND POLICIES

EMERGENCY OPERATIONS

OBJECTIVE 3 ENSURE THE PROTECTION OF LIFE AND PROPERTY FROM THE EFFECTS OF FIRE OR NATURAL DISASTER THROUGH ADEQUATE EMERGENCY OPERATIONS PREPARATION.

POLICY 1 Maintain a local agency for the provision of emergency services to meet the needs of San Francisco.

POLICY 2 Develop and maintain viable, up-to-date in-house emergency operations plans, with necessary equipment, for operational capability of all emergency service agencies and departments.

POLICY 3 Maintain and expand agreements for emergency assistance from other jurisdictions to ensure adequate aid in time of need.

- POLICY 4 Establish and maintain an adequate Emergency Operations Center.
- POLICY 5 Maintain and expand the city's fire prevention and fire-fighting capability.
- POLICY 6 Establish a system of emergency access routes for both emergency operations and evacuation.

Environmental Protection Element

- OBJECTIVE 10 MINIMIZE THE IMPACT OF NOISE ON AFFECTED AREAS.
The process of blocking excessive noise from our ears could involve extensive capital investment if undertaken on a systematic, citywide scale. Selective efforts, however, especially for new construction, are both desirable and justified.
- POLICY 1 Promote site planning, building orientation and design, and interior layout that will lessen noise intrusion.
- POLICY 2 Promote the incorporation of noise insulation materials in new construction.
- OBJECTIVE 14 PROMOTE EFFECTIVE ENERGY MANAGEMENT PRACTICES TO MAINTAIN THE ECONOMIC VITALITY OF COMMERCE AND INDUSTRY.
- POLICY 1 Increase the energy efficiency of existing commercial and industrial buildings through cost-effective energy management measures.
- POLICY 5 Encourage use of integrated energy systems.

Transportation Element

The Transportation Element contains no relevant policies.

Arts Element

- GOAL I. SUPPORT AND NURTURE THE ARTS THROUGH CITY LEADERSHIP
- OBJECTIVE 1 RECOGNIZE THE ARTS AS NECESSARY TO THE QUALITY OF LIFE FOR ALL SEGMENTS OF SAN FRANCISCO.
- POLICY 1 Promote inclusion of artistic considerations in local decision-making.
- OBJECTIVE 2 INCREASE THE CONTRIBUTION OF THE ARTS TO THE ECONOMY OF SAN FRANCISCO.
- OBJECTIVE 3 DEVELOP AND EXPAND ONGOING PARTNERSHIPS WITH THE PRIVATE SECTOR IN SUPPORT OF THE ARTS.
- POLICY 1 Develop partnerships with the private sector and the business community to encourage monetary and non-monetary support of the arts, as well as sponsorships of arts organizations and events.

Section 6. Quality of Life Considerations Associated with WTS Facilities

A number of health, safety and quality of life concerns have been raised regarding the siting of WTS facilities in the City. These concerns include:

- ! Visual impacts of both antennae and "back up" equipment (transceivers, air conditioning, switching and power equipment). How many is "too many"? How can we avoid the "antennae farm" visual impacts of too many on any one building?
- ! How can we mitigate the visual impact of numerous antennas on any one street or neighborhood, particularly in residential areas or in view corridors?
- ! How can we measure "visual clutter" by WTS facilities; how can we tell when the City has reached a saturation point and cannot accept new such facilities without great visual and aesthetic harm?
- ! How can we recommend and encourage replacement of older, larger antennae if new technology develops smaller antennae over time?
- ! What type of treatments (ie. selective placement, setbacks on roofs, painting, screening, etc.) can make these facilities less visually obtrusive?
- ! How can we protect architecturally significant buildings from visually distracting elements associated with the siting of these facilities?
- ! How are warning signs near installations lit at night? Would this produce glare to nearby residents?
- ! How can we insure that the antennae do not incorporate a company logo or some other form of advertising sign?
- ! How can the City monitor each installation for compliance with FCC/ANSI Standards?
- ! How do we insure that all antenna sites incorporate multi-lingual warning signs and fence/barriers to prevent un-trained workers, tenants and the general public from entering dangerous areas?
- ! Can the Planning Commission require landlords to advise prospective tenants in writing of the presence of PCS antennae on the premises (so people can choose not to rent)?

Section 7. WTS Facilities Siting Policies

The following policies and guidelines attempt to address, to the extent possible, the concerns raised by the public.

Land Use

- LU1 Insure that the siting of Wireless Telecommunications Services (WTS) Facilities is compatible with nearby uses. WTS facilities should meet Federal Communications Commission (FCC) health and safety standards. Operation of new facilities should not cause interference with existing nearby facilities such that the existing facility would be required to increase its power source or other equipment to continue proper service. These potential impacts should be considered, measured and mitigated prior to approval of a new facility.
- LU2 Insure that the type of WTS facility is compatible with the scale of the locale or, if it is out of scale, is (1) determined to be necessary at that location for the Applicant's operational needs; (2) meets the criteria of Section 303(c) of the Planning Code; and (3) incorporates all feasible measures to ameliorate visual intrusion or other adverse impacts. Whenever feasible, design out-of-scale facilities as public art rather than obtrusive utilities.
- LU3 Insure that the facility is sited on a structure in such a way as to minimize visual obstruction. Sites to be considered, in order of preference, are: (1) Public buildings, structures, utilities, or other neighborhood institutions; (1A) Co-Location Sites; (2) Industrial or commercial buildings where existing visual obstructions/clutter will be removed; (3) Industrial or commercial buildings where existing visual obstructions/clutter cannot, in a commercially reasonable and viable manner, be removed; (4) Residential buildings which exceed the height limit where existing visual obstructions/clutter will be removed; (5) Residential buildings which exceed the height limit and where the back-up equipment is installed within the building envelope or installed in such a way as to minimize visual obstruction; or (6) Residential buildings which are at or below the allowable height limit.
- LU4 Protect landmark structures, historically-significant structures, architecturally-significant structures, landmark vistas or scenery, and view corridors from visually-obtrusive WTS antennas and "back-up" equipment.
- LU5 Protect natural resources, open spaces, recreational trails and/or other recreational resources from intrusion from installation of unmitigated WTS facilities such that emissions, lighting, signage or barriers would diminish the value and/or public access to those resources.
- LU6 Insure that the siting of any WTS facility will be subject to development requirements that will mitigate any potential health, safety, urban design, neighborhood character or public access impacts and insure that the installation

will positively address the 8 priority policies of Section 101.1 of the City Planning Code (Prop M policies).

Urban Design

- UD1 Protect the urban design, scale, architectural character and visual continuity of the neighborhood by siting WTS facilities on buildings and in such a way that would minimize visual obtrusion and protect the vistas and beauty of San Francisco. WTS facilities should be made as unobtrusive as possible, consistent with the reasonable technological requirements of the facility. No advertising sign or identifying logo should be displayed on any WTS facility or element. Antenna panels should not reflect light. The Department or Commission should review applications to determine when a locale or building is approaching the maximum number of WTS facilities such that the locale or site is not overwhelmed with facilities and/or the site is perceived to becoming an "antennae farm" or too "busy" and visually distracting.
- UD2 Require Applicants to develop and submit with their Application a 5 year plan generally describing the services to be provided within the City, each service area within the City, and the size, type and number of facilities anticipated for each service area within the 5 year period.
- UD3 When reasonably possible and commercially practicable, remove existing visual obstructions/clutter on the rooftop or roofline on a permanent basis associated with the installation of WTS facilities in the City.

Health and Safety

- HS1 The Applicant should pay all reasonable costs associated with the measuring, recording, reporting and monitoring of emissions, including noise, EMR/RF, and thermal, associated with the WTS facility at all locations. Such information should be made available to any interested party through the Applicant's Neighborhood Liaison. All such records would be available for public review in City records.
- HS2 The Department of Building Inspection has the responsibility to insure that the installation site is structurally-sound and is seismically-safe for the proposed equipment.
- HS3 The City should insure that emergency telecommunication services are available on a priority basis to the appropriate agencies in the event of a

disaster or emergency; that is, if the system is rendered inoperable by a disaster, carriers shall be required to work closely with the City's Office of Emergency Services (or its' equivalent) to restore emergency City services as quickly as is possible. The installations should not interfere with any City emergency service telecommunications system.

- HS4 The Applicant should insure that the WTS facilities are sited in such a way as to comply with any FCC-adopted safety standards governing controlled and uncontrolled access to the facility. Facilities should have barriers to prevent unauthorized access. Signs in several languages as may be required by any FCC-adopted standards should be posted, to advise people of the presence of equipment emitting electromagnetic radiation and radio frequency radiation and to warn people not to approach this equipment.

Community Involvement

- CI1 Applicants should establish a neighborhood liaison program for each neighborhood within their proposed geographic service area and publicize within the neighborhood the name, address, fax and phone number of the neighborhood liaison. The liaison is encouraged to meet with the community to present their proposals prior to application to the Planning Department. However, once an application is filed with the Planning Department, the Project Sponsor must meet with neighbors and representatives of any neighborhood organization within the area to present their proposal(s). The liaison program should continue throughout the time the WTS facility remains operational in the neighborhood. Persons to be invited to the community meeting by the Applicant shall be drawn from the neighborhood notification sources cited in Section 10.9 of these Guidelines, or a more suitable source as determined by the Zoning Administrator.
- CI2 To the extent lawfully permitted, the Applicant should pay the proportionate costs (time and materials) to support on-going interdepartmental City agency coordination with the City's Telecommunications Commission, Department of Telecommunications and Information Services, any other City agency, as appropriate, to coordinate the siting, monitoring and compliance of WTS facilities. Such a group could include representatives from the Department of Planning, the Department of Building Inspection, the Department of Public Health, the Department of and Information Services, the City Administrator's Office, the Department of Public Works, the Office of the City Attorney, the Department of Real Estate (or their equivalents), among others.

Section 8. Standard Location and Urban Design Siting Preferences.

Wireless Telecommunication Services require various types of facilities, depending upon the technology and radio frequency used and the geographic service area. Television and

Radio transmissions require tall towers which typically serve customers throughout a large region. Personal pagers and cellular phones require more numerous yet smaller antennas and relay station facilities. These Guidelines will address Location Preferences, Urban Design Criteria and Sample Conditions of Approval for cellular phone facilities, personal communications services (PCS), Enhanced Specialized Mobile Radio (ESMR) facilities, and other wireless telecommunications facilities which feature similar equipment and land use impacts and are regulated by the FCC. These Guidelines do not address issues related to large towers, monopoles, satellite dishes or micro-dish facilities serving personal pagers.

The Department's experience in the siting of accessory and conditional uses in industrial, commercial, mixed use and residential districts informs them that certain structures are more adaptable to such ancillary facilities and are perceived by the public to be less intrusive than other structures. Placing WTS facilities on certain structures can ameliorate adverse visual or aesthetic effects of such installations. The following location preferences and urban design criteria and treatments, and associated standard conditions of approval, are intended to ameliorate any potential visual or neighborhood livability concerns while still facilitating growth of an industry that is vital to the City's economic health and whose services are demanded by an increasing number of the City's residents, businesses, workers and visitors.

Section 8.1. Location Preferences

The locations for siting of WTS/Personal Communications Services (PCS) facilities in the City are listed in paragraphs 1 through 7 below. Publicly-used structures are preferred locations throughout the City because they appear in all neighborhoods and, within each neighborhood, they appear to be institutional/infrastructure uses, similar in appearance to WTS installations. Therefore, WTS installations on publicly-used structures appear less noticeable than on commercial or residential structures. Similarly, WTS installations on structures which already feature similar installations (co-location sites) would also appear less noticeable than on other structures, up to the point when there would be too many antennae and the structure appears too "busy", "cluttered", visually obtrusive and irritating.

Preferred Locations Within A Particular Service Area

Preferred Location Sites

1. Publicly-used structures. Public facilities such as police or fire stations, libraries, community centers, utility structures, water towers, elevated roadways, bridges, flag poles, smokestacks, telephone switching facilities, or other public structures. Where the installation complies with all FCC regulations and standards, schools, hospitals, health centers, places of worship, or other institutional structures should also be considered.
2. Co-Location Site: Any existing site on which a legal wireless telecommunications facility is currently located shall be a Preferred Location

Site regardless of the underlying zoning designation of the site, provided, however, that locations which meet this criteria shall be subject to the design and siting components of these Guidelines, applicable policies of the General Plan, the Eight Priority Policies of Section 101.1 of the Planning Code (Prop. M Findings), or any other such policies which are or may be adopted by the Planning Department or Planning Commission, including, but not limited to, policies which prevent location of so many facilities on a structure such that the roof or site resembles an "antennae farm" or is otherwise deemed visually obtrusive.

3. Industrial or Commercial Structures. Wholly industrial or commercial structures within RC-3, RC-4, NC-2, NC-3 and NC-S Districts, or other districts not otherwise noted below (such as C-2, CM, M-1 or M-2 Districts), within the service area such as warehouses, factories, retail outlets, supermarkets, banks, garages, service stations where existing visual obstructions/clutter on the roof or along the roofline can and will, in a commercially practicable manner, be removed as part of the installation.
4. Industrial or Commercial Structures. Wholly industrial or commercial structures within RC-3, RC-4, NC-2, NC-3 and NC-S Districts, or other districts not otherwise noted below, such as retail stores, supermarkets, banks and garages. No removal of existing visual obstructions will be required for location on structures within Location Preference 4.
5. Mixed Use Buildings in High Density Districts. Mixed use buildings (housing above commercial or other non-residential space) are also Preferred Location Sites provided they are located in RC-3 and RC-4 Districts or NC-2, NC-3 or NC-S Districts, or other districts not otherwise noted in Paragraphs 6 and 7 below.

Limited Preference Sites

6. Limited Preference Sites: Buildings located in the following zoning districts are Limited Preference Sites: Individual Neighborhood Commercial Districts (NCDs) subject to Sections 714.1 through 729.1 and 781.1 through 781.7 of the Planning Code, NC-1 Districts, and RM-4 Districts. The Planning Commission will not approve applications for such sites unless the application describes: (a) what publicly-used building, co-location site or other Preferred Location Sites are located within the geographic service area; (b) what good faith efforts and measures were taken to secure these more preferred location (i.e. Paragraphs 1 through 5 above); (c) why such efforts were unsuccessful; and (d) how and why the proposed site is essential to meet service demands for the geographic service area and the Applicant's citywide network.

In addition, when determining the propriety of the placement of WTS facilities on Limited Preference Sites located immediately adjacent to RH-1, RH-1 (D), RH-2, RH-3, RM-1, RM-2, RM-3, RC-1 and RC-2 zoning districts, the Planning Commission shall make findings about the effect the facilities will have on any adjacent residential areas, including but not limited to the land use, aesthetic and visual impacts.

An Applicant for publicly-used structures or co-location sites within the Individual NCDs, NC-1 and RM-4 Districts need not satisfy the justification conditions (a) through (d) herein for use of Limited Preference Sites.

Disfavored Sites

7. Disfavored Sites: Buildings located in the following zoning districts are disfavored sites: RH-1, RH-1 (D), RH-2, RH-3, RM-1, RM-2, RM-3, RC-1 and RC-2. The Planning Commission will not approve applications for such sites unless the application (a) shows what publicly-used building, co-location site or other Preferred Location Sites are located within the geographic service area; (b) shows by clear and convincing evidence what good faith efforts and measures to secure these Preferred Location Sites were taken; (c) explains why such efforts were unsuccessful; and (d) demonstrates that the location for the site is essential to meet demands in the geographic service area and the Applicant's citywide network, provided, however, that facilities placed on publicly-used structures, as defined in Paragraph 1 above, or in co-location sites as defined in Paragraph 2 above, in these zoning districts shall not be disfavored sites and may be approved for a WTS installation by the Planning Commission. An application for installation of a WTS facility on a publicly-used structure shall not be considered a disfavored site and need not satisfy the justification conditions herein for use of disfavored sites. A co-location site within these zoning districts, meeting the criteria of Paragraph 2 above, shall not be considered a disfavored site and need not satisfy the justification conditions herein for use of disfavored sites.

Section 9. Building Siting Criteria

Each WTS/PSC facility shall be installed on and/or within the building in such a way as to:

1. Minimize the visual impact of the installation from public vistas or streets.
2. Minimize visual impacts of the facility from habitable living areas (such as bedrooms or living rooms) of residential units which directly face the antenna within 100 feet horizontal distance.
 - ! Whenever possible, back-up facilities shall be installed within the existing building envelope;
 - ! If new construction is required for the back-up equipment, the housing for this equipment shall be low-lying and shall be painted, screened, landscaped or

- otherwise treated architecturally to minimize visibility of the equipment or to otherwise create a visually pleasing feature;
- ! If back-up equipment is installed on the roof, the facility shall be setback or otherwise located to minimize visibility, especially from the street or public places.
3. Minimize noise and thermal transmission from equipment to tenants of the subject building. In Residential districts, San Francisco noise standards for residential use must be met. Noise levels created by back-up equipment, such as air conditioning, ventilation or power equipment, should at all times be within the levels established by the San Francisco Noise Ordinance.
 4. Avoid or minimize intrusion into usable open space within the lot.
 5. Site antennas in such a way and provide barriers and signage to prevent a person from passing within the safety limits established by the FCC-adopted standards for controlled access.

Section 10 . Application Information Required

Each application for a WTS facility, whether an antenna, relay station or other similar structure or equipment shall provide the following information to the Planning Department.

10.1. Five Year Facilities Plan.

Each application shall include a five year facilities plan. The Department will inventory all existing and proposed cell site installations and would like all carriers to provide the following information in each five year plan. The 5 year Plan must be updated with each submittal, as necessary:

1. Prepare a written description of the type of technology each company/carrier will provide to its customers over the next 5 years (Cellular, PCS, ESMR);
2. Describe the radio frequencies to be used for each technology;
3. Describe the type of consumer services (voice, video, data transmissions) and consumer products (mobile phones, laptop PCs, modems) to be offered;
4. Provide a list of all existing, existing to be upgraded or replaced, and proposed cell sites within the City for these services by your company;

5. Provide a presentation size map of the City which shows the 5 year plan cell sites, or if individual properties are not known, the geographic service areas of the cell sites. We would like the map to be provided in hard copy at a 24 inch by 36 inch or greater size and to be provided on 3 1/2 inch disc formatted for IBM-compatible MapInfo; and
6. Provide a written list of the 5 year cell sites in both hard copy and 3 1/2 inch disc formatted for IBM-compatible WordPerfect 6.0 or Windows Word. The list should include the following information:
 - ! List the cell sites first by address and then be Assessor's Block and Lot;
 - ! List the Zoning District and Height and Bulk District;
 - ! List the type of building (commercial, residential, mixed use) and number of stories;
 - ! List the carrier (your company);
 - ! List the number of antennae and base transceiver stations (BTS) per site by your carrier and, if there are other installations on a site, list the number by each carrier;
 - ! Describe the location and type of antennae installation (stand alone rooftop, rooftop attached to a mechanical penthouse, or building facade) and location of the BTS installation(s);
 - ! List the height from grade to the top of the antennae installation(s); and
 - ! List the Radio Frequency range in Megahertz and list the wattage output of the equipment.

If you do not yet know the specific cell site location, list the Assessor's Blocks contained within the geographic service area you anticipate for each City neighborhood and identify each geographic service area with a number that will correspond to the future cell site (Site 1, site 02).

- 10.2. Service Area Definition.
Each application shall identify the geographic service area for the subject installation, including a map showing the site and the associated "next" cell sites within the network. Describe the distance between cell sites. Describe how this service area fits into and is necessary for the company's service network.

- 10.3. Location Preference within the Service Area.
Each application shall provide the following information:
Identify which Location Preference, identified in Section 8.1. above, the proposed facility is meeting. If the proposed location is not a Preferred Location 1 through 5, describe: (a) what publicly-used building, co-location site or other Preferred Location Sites are located within the geographic service area. Provide a list (by address with lot and block number noted) and a map at 1:200 scale of all such buildings within the service area; (b) what good faith efforts and measures were taken to secure each of these Preferred Location Sites; (c) describe why each such site was not technologically, legally or economically feasible and why such efforts were unsuccessful; and (d) how and why the proposed site is essential to meet service demands for the geographic service area and the citywide network.
- 10.4. Cumulative Effects:
- 10.4.1 Identify the location of the Applicant's antennas and back-up facilities per building and number and location of other telecommunication facilities on the property; include the following data for each facility:
- a) Height of all existing and proposed WTS facilities on the property, shown in relation to the height limit for the District and measured from sidewalk grade;
 - b) Dimensions of each existing and proposed antenna and back-up equipment on the property;
 - c) Power rating for all existing and proposed back-up equipment subject to the Application;
 - d) Preferred method of attachment of proposed antenna (roof, wall mounted, monopole) with plot or roof plan along with detailed installation plans with a description for screening and/or visual integration into the building's architecture.
- 10.5. Report estimated Ambient Radio Frequency Fields for the proposed site.
- 10.5.1. Identify the total number of watts per installation and the total number of watts for all installations on the building (roof or side).
- 10.5.2. Identify the number and types of WTS within 100 feet of the proposed site and provide estimates of cumulative EMR emissions at the proposed site.

- 10.6.1. To show the scale of the locale, provide photographs (photo montage) identifying the height of buildings within 100 feet distance of the proposed site showing the primary building facades.
- 10.6.2. Provide 20 copies of a site map showing the subject parcel and the Use District and Height and Bulk zoning designations for the subject block and adjacent blocks
- 10.6.3. Provide 20 copies of photographs of the building/site without the installation and 20 copies of a photomontage of the building/site showing the installation.
- 10.6.4. Provide 20 copies of 8 1/2 by 11 inch and one full size architectural plan drawings of the elevation of the building/site which show the dimensions in feet of the (a) height of the building, (b) height of any rooftop penthouse, (c) height of any base transceiver unit (BTU) or other back-up equipment, and (d) the height to the top of the antennae measured from the sidewalk elevation. Provide a rooftop plan if the installation is to be on the roof, if elsewhere provide a plan for that location.
- 10.6.5. Provide 20 8 1/2 by 11 inch copies of scale (showing dimensions in feet and inches) drawings of the BTU and antennae equipment for review by the public and for transmittal to the Planning Commission.
- 10.7. If there is a commonly identified public view corridor within 100 feet of the proposed site (such as an entrance to the City, a view of a famous City landmark or vista), identify what element(s) of the proposed facility (including screening) can be viewed from this public space or vista point.
- 10.8. Maintenance Program.
Provide a description of the anticipated maintenance and monitoring program for the antennae and back-up equipment, including frequency of maintenance services, back-up service plans for disruption of service due to repair, maintenance or monitoring activities.
- 10.9. Public Notification.
- 10.9.1. Provide a list and set of mailing labels for both owners and tenants (occupant designation for tenants is acceptable) of properties within 300 feet of the proposed property as well as all neighborhood organizations in all Districts outside of C-3 and RC-4 Districts. Within the higher density C-3 and RC-4 Districts, the Applicant shall provide

- a list and set of mailing labels for (a) owners within 300 feet of the subject property; (b) for residential tenants within the subject building; and (c) for tenants of residential units lying within 25 feet of the subject property. The Applicant may identify the appropriate neighborhood organization from the Department's publication Directory of Neighborhood Organizations and Service Agencies. Department staff may add neighborhood groups or representatives for notification as needed on a case-by-case basis. Applicants will not be responsible for notice to tenants of units existing without legal permits. Note the number of addressees on the list.
- 10.9.2. Provide signage at the facility identifying all WTS equipment and safety precautions for people nearing the equipment as may be required by any applicable FCC-adopted standards.

Section 11. Sample Conditions of Approval

The Planning Commission or Zoning Administrator could place any or all of these conditions, or could place similar conditions of approval on specific applications. Each application would be reviewed and analyzed on a case-specific basis. It is anticipated that, if deemed suitable for approval, applications for similar-technology WTS facilities will be given the following conditions of approval.

Conditions of Approval.

1. Authorization. This authorization is granted to install a public use in the form of ___ antennas and ___ base receivers (the "facilities") for the provision of personal wireless services on the ___ of an existing structure at _____, Assessor's Block_____, Lot_____; the facilities are to be installed in general conformity with the plans submitted with the Application and identified as EXHIBIT __, dated _____ and submitted to the Commission for review on _____.
2. Plan Drawings. Prior to the issuance of any building or electrical permits for the installation of the facilities, the Project Sponsor shall submit final scaled drawings for review and approval by this Department ("Plan Drawings"). The Plan Drawings shall:
 - a) Structure and Siting. Identify all facility related support and protection measures to be installed. This includes, but is not limited to, the location(s) and method(s) of placement, support, protection, screening, paint and/or other treatments of the antennas and other appurtenances to insure public safety, insure compatibility with urban design, architectural and historic preservation principles, and harmony with neighborhood character.

- b) Cumulative Facilities. For the Subject Property, regardless of the ownership of the existing facilities:
 - i) Identify the location of all existing antennas and facilities;
 - ii) identify the location of all approved (but not installed) antennas and facilities.
 - c) Emissions. Provide a report (as described in Condition 3(e) and 8 below), subject to approval of the Zoning Administrator, that operation of the facilities in addition to ambient RF emission levels will not exceed adopted FCC standards with regard to human exposure in uncontrolled areas.
3. Project Implementation Report. The Project Sponsor shall prepare and submit to the Zoning Administrator a Project Implementation Report. The Project Implementation Report shall provide the following information in simple English written in such a way as to be easily understandable to the lay person. The Planning Department will establish a standard format for all such reports:
- a) identify the three-dimensional perimeter closest to the facility at which adopted FCC standards for human exposure to RF emissions in uncontrolled areas are satisfied;
 - b) document testing that demonstrates that the facility will not cause any potential exposure to RF emissions that exceed adopted FCC emission standards for human exposure in uncontrolled areas.
 - c) the Project Implementation Report shall compare test results for each test point with applicable FCC standards. Testing shall be conducted in compliance with FCC regulations governing the measurement of RF emissions and shall be conducted during normal business hours on a non-holiday week day with the subject equipment measured while operating at maximum power.
 - d) Testing, Monitoring, and Preparation. The Project Implementation Report shall be prepared by a certified professional engineer or other technical expert approved by the Department. For all measurements made to ensure compliance with this subsection, evidence must be submitted showing that the testing instrument(s) used were calibrated within their manufacturer's suggested periodic calibration interval, and that the calibration is by methods traceable to the National Bureau of Standards. At the sole option of the

Department, the Department (or its agents) may monitor the performance of testing required for preparation of the Project Implementation Report. The cost of such monitoring shall be borne by the Project Sponsor pursuant to the condition related to the payment of the City's reasonable costs.

- e) Notification and Testing. The Project Implementation Report shall set forth the testing and measurements undertaken pursuant to Condition 8, below.
 - f) Approval. The Zoning Administrator shall request that the Certification of Final Completion for operation of the facility not be issued by the Department of Building Inspection until such time that the Project Implementation Report is approved by the Department for compliance with these conditions.
4. Notification prior to Project Implementation Report. The Project Sponsor shall undertake to inform and perform appropriate tests for residents of dwelling units located within 25 feet of the transmitting antennae at the time of testing for the Project Implementation Report.
- a) At least twenty calendar days prior to conducting the testing required for preparation of the Project Implementation Report, the Project Sponsor shall mail notice to the Department, as well as the resident of any legal dwelling unit within 25 feet of a transmitting antenna, of the date on which testing will be conducted. The Applicant will submit a written affidavit attesting to this mail notice along with the mailing list.
 - b) When requested in advance by a resident notified of testing pursuant to subsection (a), the Project Sponsor shall conduct testing of total power density of RF emissions within the residence of that resident on the date on which the testing is conducted for the Project Implementation Report.
5. Community Liaison. Within 10 days of the effective date of this authorization, the Project Sponsor shall appoint a community liaison officer to resolve issues of concern to neighbors and residents relating to the construction and operation of the facilities. Upon appointment, the Project Sponsor shall report in writing the name, address, telephone and facsimile number of this officer to the Zoning Administrator. The Community Liaison Officer shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

6. Installation. Within 10 days of the installation and operation of the facilities, the Project Sponsor shall confirm in writing to the Zoning Administrator that the facilities are being maintained and operated in compliance with applicable Building, Electrical and other Code requirements, as well as applicable FCC emissions standards.
7. Screening.
 - a) To the extent necessary to ensure compliance with adopted FCC regulations regarding human exposure to RF emissions, and upon the recommendation of the Zoning Administrator, the Project Sponsor shall:
 - i) Modify the placement of the facilities;
 - ii) Install fencing, barriers or other appropriate structures or devices to restrict access to the facilities;
 - iii) Install multi-lingual signage, including the RF radiation hazard warning symbol identified in ANSI C95.2-1982, to notify persons that the facility could cause exposure to RF emissions; and/or
 - iv) Implement any other practice reasonably necessary to ensure that the facility is operated in compliance with adopted FCC RF emission standards.
 - b) To the extent necessary to minimize visual obtrusion and clutter, installations shall conform to the following standards:
 - i) Antennas and back-up equipment shall be painted, fenced, landscaped or otherwise treated architecturally so as to minimize visual impacts;
 - ii) Rooftop installations shall be setback such that back-up facilities are not viewed from the street;
 - iii) Antennae attached to building facades shall be so ~~located~~, placed, screened or otherwise treated to minimize any negative visual impact;
 - iv) If WTS facilities are to be located on architecturally-significantly or historic buildings or structures, all facilities shall be integrated

architecturally with the style and character of the structure or otherwise made unobtrusive;

- v) Although co-location of various companies' facilities may be desirable, a maximum number of antennas and back-up facilities per property shall be established, on a case-by-case basis, such that "antennae farms" or similar visual intrusions for a site and area is not created; and
 - vi) The Project Sponsor shall remove antennae and equipment that has been out of service for a continuous period of six months.
8. Periodic Safety Monitoring. The Project Sponsor shall submit to the Zoning Administrator 10 days after installation of the facilities, and every two years thereafter, a certification attested to by a licensed engineer expert in the field of EMR/RF emissions, that the facilities are and have been operated within the then current applicable FCC standards for RF/EMF emissions.
9. Emissions Conditions. It is a continuing condition of this authorization that the facilities be operated in such a manner so as not to contribute to ambient RF/EMF emissions in excess of then current FCC adopted RF/EMF emission standards; violation of this condition shall be grounds for revocation.
10. Noise and Heat. The WTS facility, including power source, ventilation and cooling facility, shall be operated at all times within the limits of the San Francisco Noise Ordinance. The WTS facility, including power source and cooling facility, shall not be operated so as to cause the generation of heat that adversely affects an building occupant.
11. Implementation and Monitoring Costs.
- a) The Project Sponsor, on an equitable basis with other WTS providers, shall pay the cost of preparing and adopting appropriate General Plan policies related to the placement of WTS facilities. Should future legislation be enacted to provide for cost recovery for planning, the Project Sponsor shall be bound by such legislation.
 - b) The Project Sponsor or its successors shall be responsible for the payment of all reasonable costs associated with the monitoring of the conditions of approval contained in this authorization, including costs incurred by this Department, the Department of Public Health, the Department of Telecommunications and Information Services, Office of the City Attorney, or any other appropriate City Department or agency pursuant to Planning

Code Section 351(f)(2). The Planning Department shall collect such costs on behalf of the City.

- c) The Project Sponsor shall be responsible for the payment of all fees associated with the installation of the subject facility which are assessed by the City pursuant to all applicable law.

12. All Conditions Basis for Revocation. The Project Sponsor or its successors shall comply fully with all conditions specified in this authorization. Failure to comply with any condition shall constitute grounds for revocation under the provisions of Planning Code Sections 174, 176 and 303(d). The Zoning Administrator shall schedule a public hearing before the Planning Commission to receive testimony and other evidence to demonstrate a finding of a violation of a condition of the authorization of the use of the facility and, finding that violation, the Commission shall revoke the Conditional Use authorization. Such revocation by the Planning Commission is appealable to the Board of Supervisors.

In the event that the project implementation report includes a finding that RF emissions for the site exceed FCC Standards in any uncontrolled location, the Zoning Administrator may require the Applicant to immediately cease and desist operation of the facility until such time that the violation is corrected to the satisfaction of the Zoning Administrator.

13. Complaints and Proceedings. Should any party complain to the Project Sponsor about the installation or operation of the facilities, which complaints are not resolved by the Project Sponsor, the Project Sponsor (or its appointed agent) shall advise the Zoning Administrator of the complaint and the failure to satisfactorily resolve such complaint. If the Zoning Administrator thereafter finds a violation of any provision of the City Planning Code and/or any condition of approval herein, the Zoning Administrator shall attempt to resolve such violation on an expedited basis with the Project Sponsor. If such efforts fail, the Zoning Administrator shall refer such complaints to the Commission for consideration at the next regularly scheduled public meeting.
14. Severability. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other of the remaining provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not been included herein.

15. Transfer of Operation. Any carrier/provider authorized by the Zoning Administrator or by the Planning Commission to operate a specific WTS installation may assign the operation of the facility to another carrier licensed by the FCC for that radio frequency provided that such transfer is made known to the Zoning Administrator in advance of such operation, and all conditions of approval for the subject installation are carried out by the new carrier/provider, and the authorizing Motion is recorded on the deed of the property stating the new carrier/provider and authorizing conditions of approval.
16. Compatibility With City Emergency Services. The facility shall not be operated, nor caused to transmit on or adjacent to any radio frequencies licensed to the City for emergency telecommunication services such that the City's emergency telecommunications system experiences interference, unless prior approval for such has been granted in writing by the City.
17. Recordation. The Property Owner shall execute and record these specified conditions as a Notice of Special Restrictions at the Office of the County Recorder/County Clerk.

Section 12. Zoning Bulletin Describing Zoning Administrator Interpretations Related to WTS Facilities.

August 15, 1996 Wireless Telecommunications Facilities

Zoning Bulletin

RE: Zoning Administrator Interpretations Regarding Wireless Telecommunications Facilities

FROM: Larry Badiner, Zoning Administrator

The Planning Commission, by Resolution 14182 on August 15, 1996, adopted a set of Wireless Telecommunications Services (WTS) Facilities Siting Guidelines for the review of permit applications for WTS installations. The permit review procedures and conditions of approval described in the Guidelines would be applicable to Building Permit Applications as well as Conditional Use Applications. All applications must submit the information required in Section 10 of the August 15, 1996 Guidelines along with a Building Permit Application or a Conditional Use Application.

The following Zoning provisions and procedures shall apply to applications on private or public property:

1. Wireless Telecommunications Services (WTS) Facilities on Private Property.

Section 209.6 (b) of the San Francisco City Planning Code allows communication facilities, such as transmitting and receiving antennae, as a Conditional Use in Residential and mixed Residential-Commercial Districts. Receiving-only antennae have been deemed by the Zoning Administrator as an "accessory use" to the building occupant. Private carrier owned and operated receiving and transmitting facilities are deemed by the Zoning Administrator to be a separate commercial establishment subject to the applicable zoning regulations as described herein.

Section 227(h) of the Planning Code also allows "commercial wireless transmitting, receiving or relay facilities, including towers, antennae, and related equipment for the transmission, reception, or relay of radio, television, or other electronic signals" as a Principal use in Commercial and Industrial Districts if certain height and distance to residential uses criteria are met. Section 227(i) of the Code allows these facilities in Commercial and Industrial Districts as a Conditional Use if the criteria and provisions of Section 227(h) cannot be met.

Articles 7 and 8 of the Planning Code requires Conditional Use authorization for commercial wireless transmitting, receiving or relay facilities in Neighborhood Commercial and Mixed Use (Chinatown and South of Market) Districts.

Article 9 (Mission Bay) allows communication facilities, as defined by Section 209.6(b), as a principle use in the Moderate Density and High Density Residential Districts and prohibits them in the Lower Density Residential District. Section 943 describes how rooftop WTS facilities should be screened from view. Article 9 allows WTS facilities as a conditional use in Mission Bay Neighborhood Commercial Districts and allows them as a principle use in the Mission Bay Office and Commercial-Industrial Districts. They are not permitted in the Mission Bay Hotel District.

In addition, Section 260(b)(2)(I) of the Planning Code exempts towers and antennas from the height limitations of a particular zoning district although it does not exempt the "back up" equipment (receiving, transmitting, power supply, cooling/air conditioning equipment generally located within one box, room or shelter).

2. WTS Facilities on Telephone Switching Stations.

Sections 204, 204.2 and 204.3 describe circumstances wherein certain uses which are necessary to the operation of a principal permitted use or are incidental and subordinate to any such use can be approved as an accessory use. The Zoning Administrator has determined that a wireless telecommunications services (WTS) facility, which is both a transmitting and receiving facility, is **not** accessory to a telephone switching facility unless the existing switching facility already provides wireless transmitting of radio signals; if this were the case, the proposed new WTS facility would not be a change of use and would be considered an accessory use pursuant to Section 204. The switching station may replace the existing wireless transmitting and receiving equipment and antennae with ones serving a new technology (such as Personal Communications Services) or may add new antennae, provided that the number of new antennae would not represent a substantial change and, therefore, become a new use rather than an accessory use. The Applicant must demonstrate to the satisfaction of the Zoning Administrator that the replacement or upgrade would be no more visually obtrusive than the existing equipment, provided that the Applicant provide public notice satisfactory to the Zoning Administrator. The Zoning Administrator will determine, on a case by case basis, whether the addition of antennae represents a new use for the switching facility. If the proposed WTS is determined to represent a new use, it would require a Conditional Use authorization if located within RH, RM or RC Districts or if it met the requirements of Section 227(h)(2) of the Planning Code.

3. WTS Facilities on Public Property.

A **city-owned** telecommunications installation (receiving and transmitting) on a city-owned property zoned P-Public is deemed a public use permitted as a principal permitted use pursuant to Section 234.1 of the Planning Code.

WTS facilities owned and operated by a **private** carrier on a public property which lies within a P-Public District are permitted only as a conditional use pursuant to Section 234.2(a) of the Planning Code.

A City-operated WTS installation on a City owned property or right-of-way would require a finding of consistency with the General Plan through the General Plan Referral process if the Board of Supervisors needs to act on a lease or some other authorization for the facility. A privately-operated WTS installation on City-owned property would represent a change of use and would also require a finding of consistency with the General Plan. The City agency/department with jurisdiction over the property should send a letter to the Director of Planning requesting a General Plan referral for a finding of consistency with the General Plan for the specific property and installation.

4. General Plan Referral.

Publicly-owned and operated WTS facilities on public property in P-Public Districts have been deemed by the Zoning Administrator to be a public use permitted as a principal use, pursuant to Section 234 of the Planning Code. However, a new such installation on P-zoned land would be considered a "change of use" pursuant to the "Mandatory Referrals" provision of the San Francisco City Charter which requires a finding of consistency with the General Plan for a change of use. The Department which has jurisdiction over the public property would request a finding of consistency with the General Plan through the General Plan Referral process. This can consist of a letter addressed to the Director of Planning asking for a finding of consistency with the General Plan for the use of the property for the wireless telecommunications facility. The Zoning Administrator or the Planning Commission may place conditions of approval on such findings of consistency with the General Plan and/or on a finding of consistency with Section 101.1 of the Planning Code (Prop. M eight Priority Policies). It is the intention of the Planning Commission, as stated in their Resolution No. 14182, to use the sample conditions of approval found in Section 11 of the August 15, 1996 Wireless Telecommunications Services (WTS) Facilities Siting Guidelines for all WTS installations requiring Conditional Use, Principal Use building permits or General Plan Referral approvals.

Any change of use on a public property or a public right-of-way, whether zoned a P District or not, requires a finding of consistency with the City's General Plan by the Planning Commission or, through administrative review, by the Director of Planning or Zoning Administrator (General Plan Referral process). Certain conditions of approval can be attached to a finding of consistency with the General Plan by the Planning Commission or the Department as well as through the Building Permit Application review of Section 101.1 of the Planning Code (Prop. M findings) process. Again, it is the intention of the Planning Commission that the Zoning Administrator place the sample conditions of approval described in the Guidelines on all WTS installations on public property or rights-of-way.

Please note that installation of any communications antennae and/or base transceiver unit (BTU) on property lying within an Open Space (O.S.) Height and Bulk District must receive a finding of consistency with the General Plan prior to permit approval, pursuant to Section 290 of the Planning Code.

5. Replacement or Upgrading of Existing Facilities. The location preferences, siting policies and sample conditions of approval as described in the Guidelines for review of

Conditional Use applications or administrative building permit review shall not apply to permit applications for repair or maintenance of any legally existing such facilities or to replacement or upgrading of such legally existing facilities when Applicants demonstrate to the satisfaction of the Zoning Administrator that the replacement or upgrade (such as replacement of analog equipment to digital equipment) would be of substantially equal size and power or would be smaller or would use less power or in any other manner be no more visually obtrusive than the existing legal equipment/facility, provided, however, that the Applicant provide public notice satisfactory to the Zoning Administrator, consisting of, at a minimum, posting a notice at the site and mail notice to adjacent property owners, to neighborhood organizations and to residential tenants on the property for a 20 day prior to any approval of the building permit application

6. 5 Year Plan Submissions.

Section 10 of the Guidelines describe information required to be submitted with Conditional Use Applications and Building Permit Applications. Please note that a five year plan is required to be submitted for each carrier. We believe eight carriers have been licensed by the Federal Communications Commission to provide cellular telephone and Personal Communications Services (PCS) in the City. The Department will inventory all existing and proposed cell site installations and would like all carriers to provide the following information in each five year plan:

1. Prepare a written description of the type of technology each company/carrier will provide to its customers over the next 5 years (Cellular, PCS, ESMR);
2. Describe the radio frequencies to be used for each technology;
3. Describe the type of consumer services (voice, video, data transmissions) and consumer products (mobile phones, laptop PCs, modems) to be offered;
4. Provide a list of all existing, existing to be replaced, and proposed cell sites within the City for these services by your company;
5. Provide a presentation size map of the City which shows the 5 year plan cell sites, or if individual properties are not known, the geographic service areas of the cell sites. We would like the map to be provided in hard copy at a 24 inch by 36 inch or greater size and to be provided on 3 1/2 inch disc formatted for IBM-compatible MapInfo; and
6. Provide a written list of the 5 year cell sites in both hard copy and 3 1/2 inch disc formatted for IBM-compatible WordPerfect 6.0 or Windows Word. The list should include the following information:

- ! List the cell sites first by address and them by Assessor's Block and Lot;
- ! List the Zoning District and Height and Bulk District;
- ! List the type of building (commercial, residential, mixed use) and number of stories;
- ! List the carrier (your company);
- ! List the number of antennae and base transceiver stations (BTS) per site by your carrier and, if there are other installations on a site, list the number by each carrier;
- ! Describe the location and type of antennae installation (stand alone rooftop, rooftop attached to a mechanical penthouse, or building facade) and location of the BTS installation(s);
- ! List the height from grade to the top of the antennae installation(s); and
- ! List the Radio Frequency range in Megahertz and list the wattage output of the equipment.

If you do not yet know the specific cell site location, list the Assessor's Blocks contained within the geographic service area you anticipate for each City neighborhood and identify each geographic service area with a number that will correspond to the future cell site (Site 1, site 02).

Section 13. Planning Commission Resolution Adopting the WTS Guidelines

SAN FRANCISCO CITY PLANNING COMMISSION RESOLUTION NO. 14182

WHEREAS, The San Francisco Planning Code allows communication utilities such as commercial wireless transmitting, receiving or relay facilities, such as radio, television, paging or cellular antennas and base stations, to be located in various parts of the City and such facilities are allowed as a Principal Use in Commercial and Industrial Districts when the facility meets certain height and distance from residences criteria and allows their installation as a Conditional Use in those districts if they do not meet those criteria; and

WHEREAS, The San Francisco Planning Code allows communication utilities such as commercial wireless transmitting, receiving or relay facilities as a Conditional Use in Residential, mixed Residential-Commercial Districts, Neighborhood Commercial and Mixed Use Districts; and

WHEREAS, In the next few years, it can be expected that most businesses and many residents in the City will be using both hard wire electronic communication systems (computers, facsimile machines, cable television and radio) and wireless communication systems (cellular phones, pagers, satellite dish radio and television, facsimile and video communications, etc.) and, as a consequence, the number, size, location and types of wireless communication facilities, including antennas, will change dramatically over the next decade; and

WHEREAS, The Planning Department and Planning Commission has relied on the process of administrative review of antennas in some Districts and Planning Commission Conditional Use review of antennas in other Districts for decades, however, with the current proliferation of such facilities and the anticipation of a greater number of applications for new technologies in the near future, the land use implications of telecommunications facilities have changed and require greater scrutiny and regulation; and

WHEREAS, New technologies will require new criteria for the siting of wireless communication facilities, new procedures for the review of applications, and new measures to ameliorate or mitigate potential adverse impacts associated with these new facilities; and

WHEREAS, The land use implications for these wireless communications facilities, including cellular telephone, Personal Communications Services (PCS), and Enhanced Specialized Mobile Radio (ESMR) antennas and other wireless telecommunications facilities with similar equipment generally reflect the following concerns:

- ! Land use compatibility with residential uses regarding noise associated with 24-hour operation of the facility;
- ! Land use compatibility with other transmission facilities such that new systems do not interfere with existing facilities and harm existing businesses;

- ! Health concerns associated with enforcement of Federal Communications Commission (FCC) adopted standards for human exposure to Electromagnetic Radiation and Radio Frequency radiation;
- ! Urban design concerns related to visual obstruction, view blockage, and compatibility with architectural character of the building and neighborhood;
- ! Facilitating economic development and vitality of businesses in the City which depend on these technologies;
- ! Creating new job opportunities for San Franciscans;
- ! Providing sufficient facilities to serve residents, visitors and workers with the technological amenities they desire for modern livability (such as television, radio, cell phone and personal pagers); and

WHEREAS, the location preferences, urban design criteria, standards, policies, and guidelines presented in the attached Guidelines, once endorsed by the Commission, would provide guidance to Department staff where administrative review is warranted and to the Planning Commission in their consideration of Conditional Use applications for such facilities and would inform Project Sponsors of the standards to be used by the Department and Commission in the review of any proposed wireless telecommunications facilities with similar land use implications as cellular telephone, PCS, ESMR and other similar projects, and all applications would be reviewed and measured by the same standards as presented herein; and

WHEREAS, Any substantive amendments to the standards in the Guidelines would require endorsement by the Planning Commission at a duly noticed public hearing and, if amended, the amended standards would be made available to the public and prospective Project Sponsors; and

WHEREAS, On July 8, 1996, by Resolution No. 635-96, the San Francisco Board of Supervisors urged the Planning Commission to amend its WTS Guidelines to change its location preferences and siting criteria in such as way as to discourage the siting of WTS facilities in Residential and small scale mixed Residential/Commercial Districts; and

WHEREAS, the Board of Supervisors in that action urged the Planning Commission to formulate a moratorium on the placement of WTS facilities in these districts until a Telecommunications Facilities Plan amendment to the City's Community Facilities Element of the General Plan is adopted; and

WHEREAS, the Planning Commission finds that the amendments to the WTS Guidelines suggested by the Board of Supervisors are compatible and consistent with the Planning Commissions' concerns and policies and are consistent with the General Plan and Section 101.1 of the Planning Code;

THEREFORE BE IT RESOLVED, That the Planning Commission hereby amends the WTS Guidelines as described in the document entitled Wireless Telecommunications Services (WTS) Facilities Siting Guidelines dated August 15, 1996; and

BE IT FURTHER RESOLVED, That the Planning Commission intends to use the location preferences, urban design criteria, siting policies, application information requirements and sample conditions of approval (conditions would be amended, as needed, on a case-by-case basis to properly address a specific site and facility) contained in the Wireless Telecommunications Services (WTS) Facilities Siting Guidelines in their review and consideration of Conditional Use applications for telecommunications facilities subject to the provisions of the Planning Code and for General Plan referrals subject to the provisions of the City Charter and which are filed after May 23, 1996 and the Commission intends to use the sample conditions of approval described in the Guidelines (conditions would be amended, as needed, on a case-by-case basis to properly address a specific site and facility) for their consideration of any current/active Conditional Use application which was filed prior to May 23, 1996; and

BE IT FURTHER RESOLVED, That the Planning Commission urges the Zoning Administrator to use these same Guidelines (including the location preferences, Application information requirements, and conditions of approval) in the review and consideration of building permit applications for telecommunications facilities subject to the provisions of Section 227(h) of the Planning Code and for any other provision where administrative review of such building permit applications are warranted and;

BE IT FURTHER RESOLVED, That the location preferences, siting policies and sample conditions of approval as described in the Guidelines for review of Conditional Use applications or administrative building permit review shall not apply to permit applications for repair or maintenance of any legally existing such facilities or to replacement or upgrading of such legally existing facilities when Applicants demonstrate to the satisfaction of the Zoning Administrator that the replacement or upgrade (such as replacement of analog equipment to digital equipment) would be of substantially equal size and power or would be smaller or would use less power or in any other manner be no more visually obtrusive than the existing legal equipment/facility, provided, however, that the Applicant provide public notice satisfactory to the Zoning Administrator, consisting of, at a minimum, posting a notice at the site and mail notice to adjacent property owners, to neighborhood organizations and to residential tenants on the property for a 20 day prior to any approval of the building permit application; and

BE IT FURTHER RESOLVED, That the Planning Commission urges the San Francisco Port Commission, San Francisco Port Authority, the San Francisco Redevelopment Commission and San Francisco Redevelopment Agency to use these same Guidelines (including the conditions of approval) in the review and consideration of building permit applications for telecommunications facilities for properties lying within their respective jurisdictions and for any other provision where administrative review of such building permit applications by these City agencies are warranted; and

BE IT FURTHER RESOLVED, That the Planning Commission urges City legislators and administrators to support the Department of Public Health, the Department of Telecommunications

and Information Services, or another appropriate City agency, to develop and maintain a monitoring program for the City which would review scientific research and literature regarding potential human health effects of wireless telecommunications technology, which would review compliance reports required by the Planning Commission on individual WTS installations, and which would report to the Planning Commission on an annual basis any significant developments that could require the Commission and/or the City to revisit and/or amend the policies contained within these Guidelines or any conditions placed on individual installation authorizations; and

BE IT FURTHER RESOLVED, That the Planning Commission urges City legislators and/or administrators to provide sufficient funds and resources to the Planning Department to enable the Department to complete, within an 18 month period, (1) the development of a Telecommunications Facilities Plan amendment to the Community Facilities Element of the General Plan; (2) the development of and certification of an environmental analysis of this amendment to the General Plan and any associated amendment(s) to the Planning Code or other City code required to implement the policies and objectives of this Plan amendment; (3) the adoption any amendment to the Planning Code and General Plan required to implement the Telecommunications Facilities Plan; and (4) all coordination efforts with the Telecommunications Commission and other City agencies and Commissions associated with this Plan adoption.

EXHIBIT B

San Francisco Permitting Agencies Organizational Chart

City and County of San Francisco Departments and Divisions
involved in Wireless Telecommunications Facility Siting Permitting and Approval Process

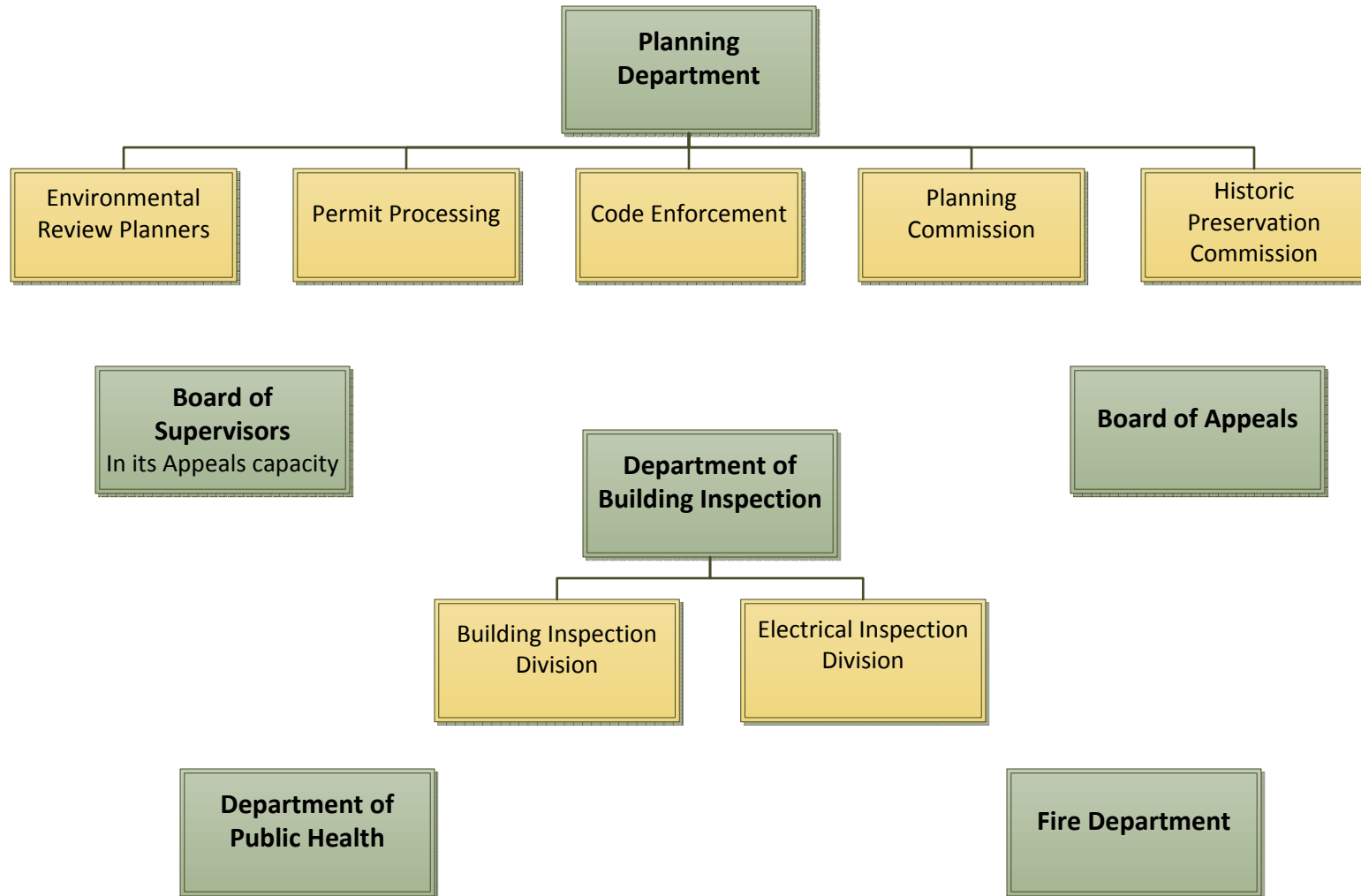


EXHIBIT C

Examples of Towerstream Antennas



EXISTING ANTENNA ON
ROOFTOP TO BE RELOCATED



PREPARED FOR:



Towerstream Corporation
Tech II, 55 Hammarlund Way
Middletown, RI 02842

PREPARED BY:



500 NORTH BROADWAY
EAST PROVIDENCE, 02914
PH: (401) 354-2403
FAX: (401) 633-6354

SITE NO: SF00102

SITE NAME: 72 GOUGH STREET

ADDRESS: 72 GOUGH STREET
SAN FRANCISCO, CA

VIEW #1
EXISTING VIEW FROM THE
INTERSECTION OF GOUGH STREET
AND ROSE STREET

PAGE: VA-2

DATE: 4/8/2013

DRAWN BY: MR

REVISION: 0

PROPOSED CAT-5 CABLE IN RUN
DOWN WALL & UNDER SOFFIT
AND PAINTED TO MATCH

PROPOSED RELOCATION OF
EXISTING ANTENNA UNDER
SOFFIT AND PAINTED TO MATCH



PREPARED FOR:



Towerstream Corporation
Tech II, 55 Hammarlund Way
Middletown, RI 02842

PREPARED BY:



SITE NO: SF00102

SITE NAME: 72 GOUGH STREET

ADDRESS: 72 GOUGH STREET
SAN FRANCISCO, CA

VIEW #1
PROPOSED VIEW FROM THE
INTERSECTION OF GOUGH STREET
AND ROSE STREET

PAGE: VA-3

DATE: 4/8/2013

DRAWN BY: MR

REVISION: 0

EXISTING ANTENNAS ON
ROOFTOP TO BE REMOVED

EXISTING ANTENNAS ON
ROOFTOP TO BE RELOCATED



PREPARED FOR:



Towerstream Corporation
Tech II, 55 Hammarlund Way
Middletown, RI 02842

PREPARED BY:



SITE NO: SF00102

SITE NAME: 72 GOUGH STREET

ADDRESS: 72 GOUGH STREET
SAN FRANCISCO, CA

VIEW #2
EXISTING VIEW FROM THE
INTERSECTION OF GOUGH STREET
AND MARKET STREET

PAGE: VA-4

DATE: 4/8/2013

DRAWN BY: MR

REVISION: 0

PROPOSED RELOCATION OF
EXISTING ANTENNAS UNDER
SOFFIT AND PAINTED TO MATCH



PROPOSED CAT-5 CABLE RUN
DOWN WALL & UNDER SOFFIT
AND PAINTED TO MATCH

PREPARED FOR:



Towerstream Corporation
Tech II, 55 Hammarlund Way
Middletown, RI 02842

PREPARED BY:



SITE NO: SF00102

SITE NAME: 72 GOUGH STREET

ADDRESS: 72 GOUGH STREET
SAN FRANCISCO, CA

VIEW #2
PROPOSED VIEW FROM THE
INTERSECTION OF GOUGH STREET
AND MARKET STREET

PAGE: VA-5

DATE: 4/8/2013

DRAWN BY: MR

REVISION: 0

EXISTING BAY WINDOW OF
SUBJECT BUILDING



PREPARED FOR:



Towerstream Corporation
Tech II, 55 Hammarlund Way
Middletown, RI 02842

PREPARED BY:



SITE NO: SF00102

SITE NAME: 72 GOUGH STREET

ADDRESS: 72 GOUGH STREET
SAN FRANCISCO, CA

VIEW #3
EXISTING VIEW FROM THE
INTERSECTION OF HAIGHT STREET
AND MARKET STREET

PAGE: VA-6

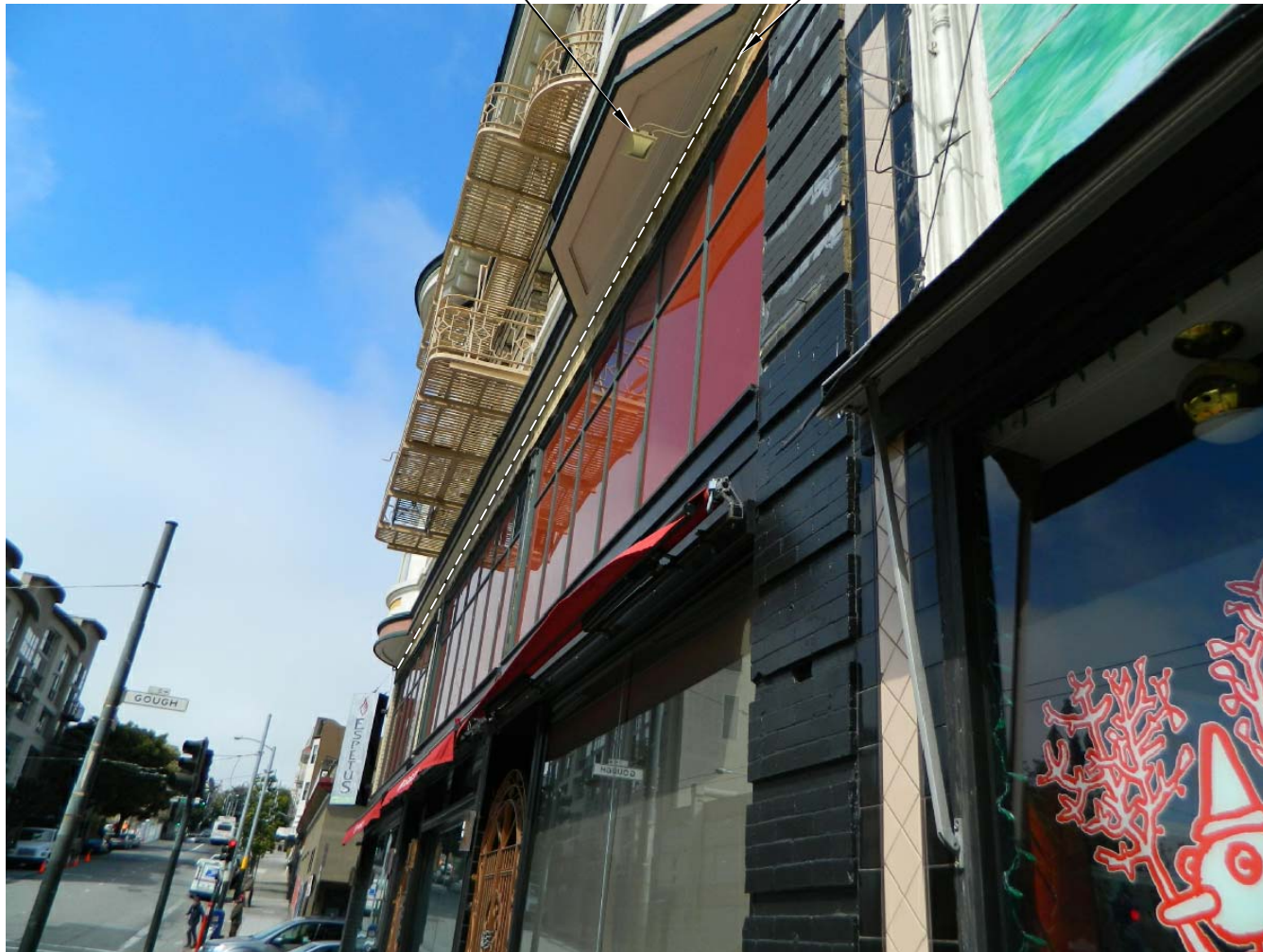
DATE: 4/8/2013

DRAWN BY: MR

REVISION: 0

PROPOSED RELOCATION OF
EXISTING ANTENNAS UNDER
SOFFIT AND PAINTED TO MATCH

PROPOSED CAT-5 CABLE RUN
UNDER BAY WINDOWS AND
PAINTED TO MATCH



PREPARED FOR:



Towerstream Corporation
Tech II, 55 Hammarlund Way
Middletown, RI 02842

PREPARED BY:



SITE NO: SF00102

SITE NAME: 72 GOUGH STREET

ADDRESS: 72 GOUGH STREET
SAN FRANCISCO, CA

VIEW #3

PROPOSED VIEW FROM THE
INTERSECTION OF HAIGHT STREET
AND MARKET STREET

PAGE: VA-7

DATE: 4/8/2013

DRAWN BY: MR

REVISION: 0

EXHIBIT D

San Francisco Planning Department's Wireless Telecommunications Facilities Application Checklists

- Permit Application Checklist
- Conditional Use Application Checklist
- Conditional Use Authorization Checklist
- Principally Permitted Site Application Checklist
- Accessory Use Site Application Checklist

Permit Application Checklist



SAN FRANCISCO
PLANNING
DEPARTMENT

CP QUADRANT:

☐ NE☐ NW☐ SE☐ SW

TECH SPEC:

☐ Preservation☐ WTS

Permit Application Checklist

WAIVER: This permit application has been accepted for purposes of initial filing. The Department may request additional information after further analysis of the application prior to completing its review. Other planning approvals, environmental documentation, or historic resource information may be required for the project to be approved. At this time, the following additional application or actions have been identified as necessary.

ADDRESS:	BLOCK:	LOT(S):

<div>Columns to the right describe potential construction project types.</div> <div>Rows describe project-specific required application materials.</div> <div>Yellow Shading in those columns describing your project indicates that the materials described by that row are required.</div> <div>Numbers within a cell refer to the matrix notes listed on the other side of the page.</div>		Demolition (Form 6)	New Construction (Forms 1 & 2)	ADDITIONS		Repair Work	Garage	ALTERATIONS (Forms 3 & 8)								Signs (Forms 4 & 7) Awnings, Canopies
				Horizontal Addition	Vertical Addition			Bay Window(s) (Permitted Obstructions, PC 136)	Deck	Dormer(s) , Stair Penthouse, Mech. Equip.	New Roof (Change of profile)	Facade Work (New windows / siding)	Commercial Tenant Improvements	Lower Floor Rooms No change in density	Change of Use or Occupancy	
GENERAL	Pre-Application Mtg Sign-In, Response & Affidavit		1	1	1		1		1	1					1	
	Neighborhood Notification Items: Map, Labels, List, & Affidavit		2	2	2		2		2	2					2	
	Site Survey (signed by surveyor or civil engineer)															
PLOT PLAN	Location of Proposed Work Within the Lot															
	Adjacent Front Walls (showing full width of adjacent lots)						9		16							
	Adjacent Rear Walls (showing full width of adjacent lots)						9		16							
PLAN(S)	Floor Plan(s) of Floor(s) of Work															
	Floor Plan(s) of Other Floor(s)													12		
	Roof Plan												14		15	
	Garage (showing existing & proposed parking spaces)													6	6	
	Landscaping (showing street tree planter & utility line location)			7	7	5	7								7	
ELEVATION(S)	Front			10	10		13	16	16	11	14		8		8	
	Rear			10	10		13	16	16	11	14	8	8			
	Side			10	10	8	13	16	16	11	14	8	8			
	Sections															
PHOTOGRAPHS	Buildings on the Same Side of the Street							8								
	Buildings on the Facing Side of the Street															
	Front Facade of the Subject Building						13	8	8				8			16
	Rear Facade of the Subject Building						13						8			
	Rear View of the Adjacent Buildings															
ADDITIONAL	Section 101.1 (Prop M) Findings															
	Formula Retail Affidavit		3													
	Tree Disclosure Form	4													17	

☐ ACCEPTED

☐ NOT ACCEPTED

DATE: _____

PLANNER (Print Name and Initial): _____

REMARKS:

Attach this form to the Building Permit Application

NOTES:

1. In areas subject to Neighborhood Notification (Planning Code Section 311, 312): required for new construction, vertical additions of 7 feet or more, horizontal additions of 10 feet tor more, decks over 10 feet above grade or within the required rear yard, or Formula Retail uses subject to a Conditional Use Authorization.

2. Required for residential and commercial buildings subject to Planning code Section 311 and 312.

3. Required if the proposed construction involves a new commercial tenant.

4. Not required if submitted with New Construction permit.

5. Required if repair work includes ground cover in the required front setback.

6. Required when the proposed work is in the garage level and it could reduce the number of parking spaces.

7. Required per Planning Code Section 142 and the Green Landscaping Ordinance.

8. Required when work is visible from the street.
9. Required only when there is an expansion of the building envelope or the proposed work involves a new structure.

10. Profiles of adjacent buildings that show the full width and roof line of each adjacent building must be included.

11. Profiles of adjacent buildings may be required at the discretion of the reviewer. Applications may be accepted without these profiles.

12. Required when the link between the existing use and the proposed work is weak and unclear.

13. Required if affected by the proposed garage.

14. If it affects the roofline.

15. If mechanical equipment is located on the roof.

16. Depends on the location of the improvements.

17. Required when adding a new residential unit.

COMMENTS OR ADDITIONAL NOTES:



FOR OTHER PLANNING INFORMATION:
Call or visit the San Francisco Planning Department

Central Reception
1650 Mission Street, Suite 400
San Francisco CA 94103-2479

TEL: **415.558.6378**
FAX: **415.558.6409**
WEB: **<http://www.sfplanning.org>**

Planning Information Center (PIC)
1660 Mission Street, First Floor
San Francisco CA 94103-2479

TEL: **415.558.6377**
*Planning staff are available by phone and at the PIC counter.
No appointment is necessary.*

Conditional Use Application Checklist



SAN FRANCISCO
PLANNING
DEPARTMENT

APPLICATION CHECKLIST FOR Conditional Use Applications for Wireless Telecommunications Facilities

Planning Department
1650 Mission Street
Suite 400
San Francisco, CA
94103-9425

T: 415.558.6378
F: 415.558.6409

For more information,
please refer to
the Planning
Department's *Wireless
Telecommunications
Services (WTS) Facilities
Siting Guidelines*
document which can be
found on our web site
www.sfplanning.org

Wireless Telecommunication Services (WTS) Facilities subject to the WTS Guidelines and this checklist include antennas which both receive and transmit radio signals, telecommunications relay stations, or other similar structures which transmit voice, video or data.

The Planning Department will make every effort to improve the aesthetic impact of existing sites whenever possible. Project Review for individual sites is strongly recommended.

Each application for a new WTS facility must provide the following information with the application or building permit application:

☐ **A. Five-Year Facilities Plan**

The Five-Year Plan must be updated biannually on or before April 1st and October 1st of each year or as required by the Zoning Administrator. In each update service providers must note the changes from the previous submittal on a spreadsheet submitted to the Department electronically. A Five-Year Plan is required only if an updated plan has not been submitted.

☐ **B. Service Area Definition**

Using coverage maps, identify the geographic service area for the subject installation; describe the distance(s) between wireless sites; describe how this service area fits into and is necessary for the company's service network; and identify any potential site consolidation opportunities.

☐ **C. Coverage & Capacity Data Evaluation;**

An independent evaluation of maps, data, and conclusions about service coverage and capacity submitted by the wireless service provider to a professional engineer, licensed by the State of California and selected from a list provided by the Planning Department; wet stamped and signed.

☐ **D. Location Preference**

Identify the Location Preference the proposed facility meets using Section 8.1 of the WTS Facilities Siting Guidelines. If the proposed site is not a preferred location (Preference 1 thru 4) describe: (a) what publicly-used building, co-location site or other Preferred Location Sites are located within the geographic service area; (b) what good faith efforts and measures were taken to secure these more preferred location (i.e. Paragraphs 1 through 5 above); (c) why such efforts were unsuccessful; and (d) how and why the proposed site is essential to meet service demands for the geographic service area and the Applicant's citywide network.

Pursuant to Planning Commission Resolution No. 16539, Co-location sites must have a facility approved pursuant to the WTS Guidelines. Sites approved as Accessory Use Determinations, or installed prior to the Guidelines, are not eligible for co-location status.

☐ **E. Cumulative Effects**

Identify the location of the Applicant's antennas and back-up facilities per building; number and location of other telecommunication facilities on the property; include the following data for each facility: a) Height of all existing and proposed WTS facilities on the property, shown in relation to the height limit for the District and measured from sidewalk grade; b) Dimensions of each existing and proposed antenna and back-up equipment on the property; c) Power rating for all existing and proposed back-up equipment subject to the Application;

d) Preferred method of attachment of proposed antenna (roof, wall mounted, monopole) with plot or roof plan along with detailed installation plans with a description for screening and/or visual integration into the building's architecture.

☐ **F. Community Outreach Affidavit & Sign-in Sheet**

An affidavit confirming completion of a community outreach meeting and sign-in sheet. The meeting requires mailed notification to all owners and tenants within a 500' radius of the subject property.

☐ **G. Notification materials**

Conditional Use applications require neighborhood notification to owners within a 300' radius of the subject property. Please reference the Conditional Use Application Packet for additional information.

☐ **H. Emissions Report and Approval from DPH**

An emissions report (with a copy forwarded directly to DPH) showing the total number of watts per installation and the total number of watts for all installations on the site; the number and types of WTS within 100 feet of the proposed site with estimated cumulative emissions at the subject site; a wet stamp of a licensed professional engineer; and a signed copy of DPH review and approval.

☐ **I. Section 106 Review**

Declaration of intent to comply. A Section 106 evaluation is required for all new WTS facilities proposed on any structure 45 years of age and older, within 250 feet of an eligible historic district, or a significant alteration to an existing site. Complying with Section 106 of the National Historic Preservation Act (NHPA) is a statutory obligation that is separate and distinct from complying with the National Environmental Policy Act (NEPA). For more information, please visit the California Office of Historic Preservation web site, http://ohp.parks.ca.gov/?page_id=22327.

☐ **J. Contextual Photographs**

Photographs of the surrounding buildings within 100 feet of the subject site showing the facades and heights of nearby buildings.

☐ **K. Photo-simulations**

Two copies of photographs with existing conditions and two copies of photo-simulations with proposed conditions.

☐ **L. Plans**

Site Map identifying the subject parcel; the Use District for the subject parcel and adjacent parcels; and Height and Bulk designations for the subject block. Full-size architectural plans with dimensions in feet of: the building height; any rooftop penthouse height; parapet wall height; existing WTS antenna/equipment height; proposed WTS antenna/equipment height; and equipment specifications.

I hereby certify that I have provided the information requested on this checklist as part of filing my application for a WTS Facility. I understand that if this material is not provided my application will be considered incomplete.

Signature

Name (Print), Title

Date

STREET ADDRESS OF PROJECT:			ZIP CODE:
CROSS STREETS:			
ASSESSORS BLOCK/LOT:	ZONING DISTRICT:	HEIGHT/BULK DISTRICT:	DATE OF MOST RECENT 5-YEAR PLAN:
/			



SAN FRANCISCO
PLANNING
DEPARTMENT

DECLARATION OF INTENT FOR Wireless Telecommunications Facility Section 106 Review

Planning Department
1650 Mission Street
Suite 400
San Francisco, CA
94103-9425

T: 415.558.6378
F: 415.558.6409

A Section 106 evaluation is required for all new WTS facilities proposed on any structure 45 years of age and older, within 250 feet of an eligible historic district, or a significant alteration to an existing site. Complying with Section 106 of the National Historic Preservation Act (NHPA) is a statutory obligation that is separate and distinct from complying with the National Environmental Policy Act (NEPA). For more information, please visit the California Office of Historic Preservation web site, http://ohp.parks.ca.gov/?page_id=22327.

You must submit this affidavit along with the Wireless Telecommunications Facility checklist to the Planning Department.

Declaration of Intent for Section 106 Review

I, _____, do hereby declare as follows:

- a. The subject Wireless Telecommunications Facility is located at (address):

Address

- b. I am aware that, according to Section 106 of the NHPA that evaluation is required for all new WTS facilities proposed on any structure 45 years of age and older, within 250 feet of an eligible historic district, or a significant alteration to an existing site; and intend to comply with all said requirements.
- c. I am a duly authorized officer or owner of the subject business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this day, _____, in

Location

Signature

Name (Print), Title

Contact Phone Number

Conditional Use Authorization Checklist



SAN FRANCISCO
PLANNING
DEPARTMENT

Planning Department
1650 Mission Street
Suite 400
San Francisco, CA
94103-9425

T: 415.558.6378
F: 415.558.6409

APPLICATION PACKET FOR Conditional Use Authorization

Pursuant to Planning Code Section 303, the Planning Commission shall hear and make determinations regarding applications for the authorization of Conditional Use. The first pages consist of instructions which should be read carefully before the application form is completed.

Planning Department staff are available to advise you in the preparation of this application. Call (415) 558-6377 for further information.

WHAT IS A CONDITIONAL USE?

A Conditional Use is a use that is not principally permitted in a particular Zoning District. Conditional Uses require a Planning Commission hearing in order to determine if the proposed use is necessary or desirable to the neighborhood, whether it may potentially have a negative impact on the surrounding neighborhood, and whether the use complies with the San Francisco General Plan. During this public hearing the Planning Commission will “condition” the use by applying operational conditions that may mitigate neighborhood concerns as well as apply conditions that may be required by the Department and the Planning Code. Conditional Use Authorizations are entitlements that run with the property, not the operator.

WHEN IS A CONDITIONAL USE AUTHORIZATION NECESSARY?

For each Zoning District, the Planning Code contains use charts that list types of uses and whether each is permitted as of right (P), conditionally permitted (C), or not permitted (NP or blank). In addition to those particular uses, the Conditional Use Authorization process is utilized for various other applications included but not limited to residential demolition, Planned Unit Developments (PUD's), and exemptions from off-street parking in certain Zoning Districts. Please consult a planner at the Planning Information Counter (PIC) for additional information regarding these applications.

HOW DOES THE PROCESS WORK?

Please review the instructions in this application and ask PIC staff if you have any questions. After filling out the application and collecting the required notification materials and plans, please contact the Planning Department for an intake appointment to process your application. At this appointment a planner will review your application to ensure that it is complete. The application will then be assigned to a planner on a specific Quadrant Team, dependent upon the location of the subject property. The assigned planner will review the application against the San Francisco General Plan, the Planning Code, and Planning Department policies and set a Planning Commission hearing date. All owners within 300 feet of the subject property will receive notification of the hearing. The assigned planner will gather comments and concerns from the neighborhood during the notification period. Neighborhood support or opposition will be reflected in a staff report presented at the Planning Commission hearing complete with the Planning Department recommendation for approval or disapproval of the conditional use.

WHO MAY APPLY FOR A CONDITIONAL USE AUTHORIZATION?

A Conditional Use Authorization is an entitlement that runs with the property; therefore, the property owner or a party designated as the owner's agent may apply for a Conditional Use Authorization. [A letter of agent authorization from the owner must be attached.]

INSTRUCTIONS:

The attached application for a Conditional Use Authorization includes a project description, necessary contact information, and two sets of findings that must be answered. The first set of findings is for the Conditional Use Authorization process and consists of a list of questions asking whether the use is necessary or desirable and whether such use may negatively impact the surrounding neighborhood. The second set of findings are Priority General Plan Policy Findings, which determine San Francisco General Plan consistency. Please answer all questions fully. Please type or print in ink and attach pages if necessary.

Please provide the following materials with this application:

- **300 Foot Radius Map and Address List:** See instructions on page 4.
 - **Authorization:** If the applicant in this case is the authorized agent of the property owner, rather than the owner, a letter signed by the owner and creating or acknowledging that agency must be attached and is included in the application for Conditional Use Authorization.
 - **Owner, Applicant, Contact Person, and Community Liaison:** The attached application includes fields for the property owner, applicant, project contact, and community liaison contact information (in many cases, these roles may be held by the same individual). The property owner is the owner of the parcel of land associated with the entitlement. The applicant may be the property owner, a business owner, an architecture firm or an expediter. The project contact may be a representative of any of the above and will serve as the primary contact for the planner assigned to the application. The community liaison may also be a representative of any of the above and will serve as the primary contact to address any construction and/or operational concerns of the community. The community liaison contact is an ongoing requirement; therefore, any changes to the community liaison should be reported to the Zoning Administrator.
 - **Drawings:** The application must be accompanied by plans sufficient for proper determination of the case. In most cases a **plot plan** will be required, accurately showing existing and proposed structures on both the subject property and on immediately adjoining properties, open spaces, driveways, parking areas, trees, and land contours where relevant. Where the size or use of floor areas is material to the case, **floor plans** will also be required.
- Drawings of building **elevations** must be provided in most cases. All **landscaping** should be clearly shown on the plans, calling out species type. A sign program may be submitted at this time. Certain types of conditional uses have additional special requirements under the Code and may require additional information to be submitted with the application; the Department staff will assist in determining what materials are required. A north arrow and scale shall be shown on each plan, and unless an exception is specifically granted by the Zoning Administrator the scale shall be not less than 1" = 20' for plot plans, 1/8" = 1' 0" for floor plans, and 1/4" = 1' 0" for plans showing layout of parking and loading.
- **Photographs:** The application must be accompanied by unmounted photographs, large enough to show the nature of the property but not over 11 X 17 inches.
- All plans and other exhibits submitted with this application will be retained as part of the permanent public record in this case.
- After your case is assigned to a planner, you will be contacted and asked to provide an electronic version of this application including associated photos and drawings.**

Fees:

Please refer to the Planning Department Fee Schedule available at www.sfplanning.org or at the Planning Information Center (PIC) located at 1660 Mission Street, First Floor, San Francisco. For questions related to the Fee Schedule, please call the PIC at (415) 558-6377. Fees will be determined based on the estimated construction costs. Should the cost of staff time exceed the initial fee paid, an additional fee for time and materials may be billed upon completion of the hearing process or permit approval. Additional fees may also be collected for preparation and recordation of any documents with the San Francisco Assessor-Recorder's office and for monitoring compliance with any conditions of approval.

The Pre-Application Process:

The following types of projects require a Pre-Application Meeting, provided that the scope of work is subject to Planning Code Section 311 or 312 Notification. Please be aware that a Pre-Application meeting is also required prior to filing any Planning entitlement application (i.e. Conditional Use Authorization, Variance) for projects subject to 311 or 312 Notification.

- New Construction;
- Any vertical addition of 7 feet or more;
- Any horizontal addition of 10 feet or more;
- Decks over 10 feet above grade or within the required rear yard;
- All Formula Retail uses subject to a Conditional Use Authorization.

Please refer to the Pre-Application Meeting Instruction Packet for further detail or contact planning staff with questions. The Pre-Application Meeting Instruction Packet is available at www.sfplanning.org or at the Planning Information Center (PIC) counter at 1660 Mission Street, First Floor, San Francisco.

CEQA Review:

The California Environmental Quality Act (CEQA) and Chapter 31 of the San Francisco Administrative Code implementing that act may require an Environmental Evaluation before the application may be considered. Please consult the Planning Department staff to determine if an Environmental Evaluation application must be submitted with this application. A separate fee is required for environmental review.

Additional Conditional Use Criteria:

For certain types of conditional uses, the Planning Code sets out additional criteria for approval in the Code section under which authorization is sought. If any such criteria apply in this case, state in detail the manner in which you believe they will be met. The referenced Code sections are available on-line and may be explained to you at the PIC.

Planning Commission Hearing Material:

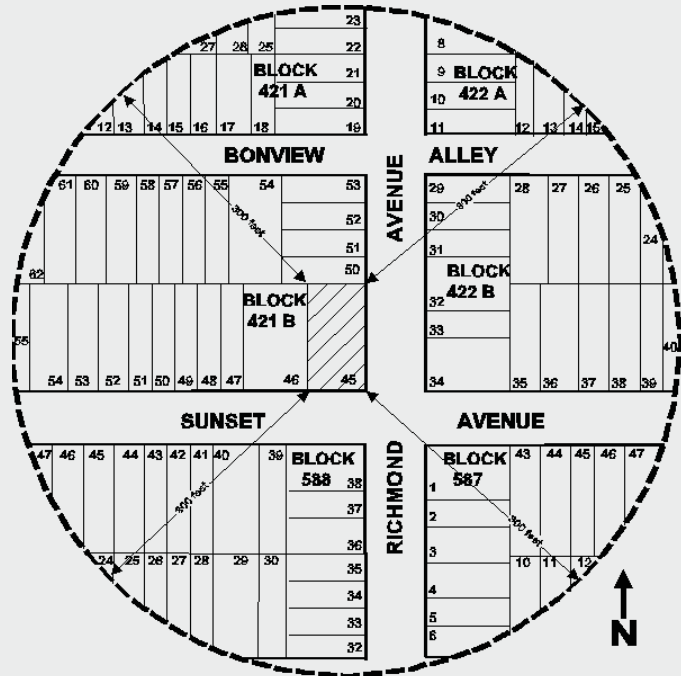
This timeline includes a deadline for project sponsors to submit material to staff to be included in the Commission packet. If the Sponsor does not submit the necessary material by the deadline, the project will be continued to a later hearing date.

- Three weeks prior to hearing: Project Sponsor submits draft project graphics (plans, renderings etc) to project planner.
- Two weeks prior to hearing: Project planner submits Draft staff report (must include draft attachments) to Team Leader for review.
- Ten days prior to hearing (5pm on Monday): Deadline for submittal of all sponsor material and public comment to be included in Commission packets
- One week prior to hearing: Project planner delivers complete Commission packets to the Commission Secretary.

To file your Conditional Use application, please call (415) 558-6378 in advance to schedule an intake appointment. At your scheduled appointment with a staff planner, please bring your completed application with all required materials.

300-foot Radius Map Instructions

1. The map must show all properties within 300-feet of the EXTERIOR boundaries of the property; a 300-foot radius map, drawn to a scale of 1 inch to 50 feet, either the original on TRACING paper or a blueprint copy (no photocopy accepted) is required for submittal with applications under the Planning Code, including variance, reclassification (rezoning), large project authorization, conditional use, and certain subdivision applications.
2. Submit two lists of the names and addresses, including the block and lot for each one, of all owners of the properties within 300 feet of the subject property and self-adhering labels with the same data. The latest Citywide tax roll is available at the Office of the Treasurer and Tax Collector, City Hall Room 140, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102, for the preparation of this list. The labels will be used to mail notice of the time and place of the public hearing required.



NOTE: THIS EXAMPLE IS NOT TO REQUIRED SCALE

EXAMPLE OF MAILING LABEL

Block # / Lot #	#9331 / #07
Name	JOHN DOE
Address	123 South Street #2 San Francisco, CA 94100

The following businesses have indicated that they provide professional notification services. This listing does not constitute an endorsement. Other professionals can also perform this work and can be added to this list upon request.

3. If you wish to prepare the materials yourself, block maps may be traced at the office of the Assessor, 81 Dr. Carlton B. Goodlett Place, City Hall, Room 190. The width of the public right-of-way for the streets separating the blocks may be determined at the Department of Public Works, Bureau of Street Use and Mapping, 875 Stevenson Street, Room 460, 554-5810.
4. You may, for a fee that varies by firm, have a private drafting or mailing service prepare these materials.

Build CADD
3515 Santiago Street
San Francisco, CA 94116
(415) 759-8710

Javier Solorzano
3288 - 21st Street #49
San Francisco, CA 94110
(415) 724-5240
Javier131064@yahoo.com

Jerry Brown Designs
619 - 27th Street, Apt. A
Oakland, CA 94612
(415) 810-3703
jbdsgn328@gmail.com

Ted Madison Drafting
P.O. Box 8102
Santa Rosa, CA 95407
(707) 228-8850
tmadison@pacbell.net

Notificationmaps.com
Barry Dunzer
(866) 752-6266
www.notificationmaps.com

Radius Services
1221 Harrison Street #18
San Francisco, CA 94103
(415) 391-4775
radiusservices@aol.com

Notice This
(650) 814-6750

What Applicants Should Know About the Public Hearing Process and Community Outreach

- A. The Planning Commission encourages applicants to meet with all community groups and parties interested in their application early in the entitlement process. Department staff is available to assist in determining how to contact interested groups. Neighborhood organization lists are available on the Department's website. Notice of the hearing will be sent to groups in or near the neighborhood of the project. The applicant may be contacted by the Planning Department staff with requests for additional information or clarification. An applicant's cooperation will facilitate the timely review of the application.
 - B. The Commission requests that applicants familiarize themselves with the procedure for public hearings, which are excerpted from the Planning Commission's Rules and Regulations below.
- 6. The project sponsor or applicant will be given a period, not to exceed 5 minutes, within which to clarify any questions raised in previous testimony.
 - 7. Organized opposition, recognized in accordance with Paragraph 3 above, will be given a period not to exceed 5 minutes, within which to clarify any questions raised in previous testimony.
 - 8. Discussion and vote by the Planning Commission on the matter before it.
 - 9. The President may impose time limits on appearances by members of the public and may otherwise exercise his or her discretion on procedures for the conduct of public hearings.

Hearings. A public hearing may be held on any matter before the Commission at either a Regular or a Special Meeting. The procedure for such public hearings shall be as follows:

- 1. A description of the issue by the Director or a member of the staff along with the Planning Department's recommendation.
 - 2. A presentation of the proposal by the project sponsor for a period not to exceed 15 minutes.
 - 3. A presentation of opposition to the proposal, by organized opposition, for a period not to exceed 15 minutes. Organized opposition will be recognized only upon written application to the president at or prior to the hearing. Such application should identify the organization(s) and speaker(s).
 - 4. Public testimony from proponents of the proposal. An individual may speak for a period not to exceed 3 minutes. An organization or group will be given a period not to exceed 5 minutes if the organization or group is represented by one speaker.
 - 5. Public testimony from opponents of the proposal would be taken under conditions parallel to those imposed on proposal proponents, 3 minutes for an individual and 5 minutes for a group or organization if the group or organization is represented by one speaker.
- C. **Private Transcription.** The Commission President may authorize any person to transcribe the proceedings of a Regular, Special or Committee Meeting provided that the President may require that a copy of such transcript be provided for the Commission's permanent records.
 - D. **Opportunities for Appeals by Other Bodies:** Planning Commission actions on Conditional Uses are final unless appealed to the Board of Supervisors within **30 days** of Commission action.

APPLICATION FOR Conditional Use Authorization

1. Owner/Applicant Information

PROPERTY OWNER'S NAME:	
PROPERTY OWNER'S ADDRESS:	TELEPHONE:
	()
	EMAIL:
APPLICANT'S NAME:	
Same as Above <input type="checkbox"/>	
APPLICANT'S ADDRESS:	TELEPHONE:
	()
	EMAIL:
CONTACT FOR PROJECT INFORMATION:	
Same as Above <input type="checkbox"/>	
ADDRESS:	TELEPHONE:
	()
	EMAIL:
COMMUNITY LIAISON FOR PROJECT (PLEASE REPORT CHANGES TO THE ZONING ADMINISTRATOR):	
Same as Above <input type="checkbox"/>	
ADDRESS:	TELEPHONE:
	()
	EMAIL:

2. Location and Classification

STREET ADDRESS OF PROJECT:		ZIP CODE:		
CROSS STREETS:				
ASSESSORS BLOCK/LOT:	LOT DIMENSIONS:	LOT AREA (SQ FT):	ZONING DISTRICT:	HEIGHT/BULK DISTRICT:
/				

3. Project Description

(Please check all that apply) <input type="checkbox"/> Change of Use <input type="checkbox"/> Change of Hours <input type="checkbox"/> New Construction <input type="checkbox"/> Alterations <input type="checkbox"/> Demolition <input type="checkbox"/> Other Please clarify:	ADDITIONS TO BUILDING: <input type="checkbox"/> Rear <input type="checkbox"/> Front <input type="checkbox"/> Height <input type="checkbox"/> Side Yard	PRESENT OR PREVIOUS USE:	
		PROPOSED USE:	
		BUILDING APPLICATION PERMIT NO.:	DATE FILED:

4. Project Summary Table

If you are not sure of the eventual size of the project, provide the maximum estimates.

	EXISTING USES:	EXISTING USES TO BE RETAINED:	NET NEW CONSTRUCTION AND/OR ADDITION:	PROJECT TOTALS:
PROJECT FEATURES				
Dwelling Units				
Hotel Rooms				
Parking Spaces				
Loading Spaces				
Number of Buildings				
Height of Building(s)				
Number of Stories				
Bicycle Spaces				
GROSS SQUARE FOOTAGE (GSF)				
Residential				
Retail				
Office				
Industrial/PDR <i>Production, Distribution, & Repair</i>				
Parking				
Other (Specify Use)				
TOTAL GSF				

Please describe any additional project features that are not included in this table:
 (Attach a separate sheet if more space is needed)

Pursuant to Planning Code Section 303(c), before approving a conditional use authorization, the Planning Commission needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding.

-
- This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins or other markings on the paper.

Priority General Plan Policies Findings

Proposition M was adopted by the voters on November 4, 1986. It requires that the City shall find that proposed projects and demolitions are consistent with eight priority policies set forth in Section 101.1 of the City Planning Code. These eight policies are listed below. Please state how the project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. IF A GIVEN POLICY DOES NOT APPLY TO YOUR PROJECT, EXPLAIN WHY IT DOES NOT.

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

3. That the City's supply of affordable housing be preserved and enhanced;

4. That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

7. That landmarks and historic buildings be preserved; and

8. That our parks and open space and their access to sunlight and vistas be protected from development.

Estimated Construction Costs

TYPE OF APPLICATION:	
OCCUPANCY CLASSIFICATION:	
BUILDING TYPE:	
TOTAL GROSS SQUARE FEET OF CONSTRUCTION:	BY PROPOSED USES:
ESTIMATED CONSTRUCTION COST:	
ESTIMATE PREPARED BY:	
FEE ESTABLISHED:	

Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required.

Signature: _____

Date: _____

Print name, and indicate whether owner, or authorized agent:

Owner / Authorized Agent (circle one)

Application Submittal Checklist

Applications listed below submitted to the Planning Department must be accompanied by this checklist and all required materials. The checklist is to be completed and **signed by the applicant or authorized agent and a department staff person.**

APPLICATION MATERIALS	CHECKLIST
Application, with all blanks completed	<input type="checkbox"/>
300-foot radius map, if applicable	<input type="checkbox"/>
Address labels (original), if applicable	<input type="checkbox"/>
Address labels (copy of the above), if applicable	<input type="checkbox"/>
Site Plan	<input type="checkbox"/>
Floor Plan	<input type="checkbox"/>
Elevations	<input type="checkbox"/>
Section 303 Requirements	<input type="checkbox"/>
Prop. M Findings	<input type="checkbox"/>
Historic photographs (if possible), and current photographs	<input type="checkbox"/>
Check payable to Planning Dept.	<input type="checkbox"/>
Original Application signed by owner or agent	<input type="checkbox"/>
Letter of authorization for agent	<input type="checkbox"/>
Other: Section Plan, Detail drawings (ie. windows, door entries, trim), Specifications (for cleaning, repair, etc.) and/or Product cut sheets for new elements (ie. windows, doors)	<input type="checkbox"/>

NOTES:

- ☐ Required Material. Write "N/A" if you believe the item is not applicable, (e.g. letter of authorization is not required if application is signed by property owner.)
- ☐ Typically would not apply. Nevertheless, in a specific case, staff may require the item.
- ☐ Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street.

After your case is assigned to a planner, you will be contacted and asked to provide an electronic version of this application including associated photos and drawings.

Some applications will require additional materials not listed above. The above checklist does not include material needed for Planning review of a building permit. The "Application Packet" for Building Permit Applications lists those materials.

No application will be accepted by the Department unless the appropriate column on this form is completed. Receipt of this checklist, the accompanying application, and required materials by the Department serves to open a Planning file for the proposed project. After the file is established it will be assigned to a planner. At that time, the planner assigned will review the application to determine whether it is complete or whether additional information is required in order for the Department to make a decision on the proposal.

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____



**SAN FRANCISCO
PLANNING
DEPARTMENT**

FOR MORE INFORMATION:
Call or visit the San Francisco Planning Department

Central Reception

1650 Mission Street, Suite 400
San Francisco CA 94103-2479

TEL: **415.558.6378**
FAX: **415 558-6409**
WEB: **<http://www.sfplanning.org>**

Planning Information Center (PIC)

1660 Mission Street, First Floor
San Francisco CA 94103-2479

TEL: **415.558.6377**

*Planning staff are available by phone and at the PIC counter.
No appointment is necessary.*

Principally Permitted Site Application Checklist



SAN FRANCISCO
PLANNING
DEPARTMENT

APPLICATION CHECKLIST FOR Principally Permitted Site Applications for Wireless Telecommunications Facilities

Planning Department
1650 Mission Street
Suite 400
San Francisco, CA
94103-9425

T: 415.558.6378
F: 415.558.6409

Wireless Telecommunication Services (WTS) Facilities subject to the WTS Guidelines and this checklist include antennas which both receive and transmit radio signals, telecommunications relay stations, or other similar structures which transmit voice, video or data.

Applications for new principally permitted sites will be reviewed on a case-by-case basis and their approval process based on visual impact. **The Planning Department will make every effort to improve the aesthetic impact of existing sites whenever possible. Project Review for individual sites is strongly recommended.**

Each application for a new WTS facility must provide the following information with the application or building permit application:

☐ **A. Five-Year Facilities Plan**

The Five-Year Plan must be updated biannually on or before April 1st and October 1st of each year or as required by the Zoning Administrator. In each update service providers must note the changes from the previous submittal on a spreadsheet submitted to the Department electronically. A Five-Year Plan is required only if an updated plan has not been submitted.

☐ **B. Service Area Definition**

Using coverage maps, identify the geographic service area for the subject installation; describe the distance(s) between wireless sites; describe how this service area fits into and is necessary for the company's service network; and identify any potential site consolidation opportunities.

☐ **C. Location Preference**

Identify the Location Preference the proposed facility meets using Section 8.1 of the WTS Facilities Siting Guidelines. If the proposed site is not a preferred location (Preference 1 thru 4) describe: (a) what publicly-used building, co-location site or other Preferred Location Sites are located within the geographic service area; (b) what good faith efforts and measures were taken to secure these more preferred location (i.e. Paragraphs 1 through 5 above); (c) why such efforts were unsuccessful; and (d) how and why the proposed site is essential to meet service demands for the geographic service area and the Applicant's citywide network.

☐ **D. Cumulative Effects**

Identify the location of the Applicant's antennas and back-up facilities per building; number and location of other telecommunication facilities on the property; include the following data for each facility: a) Height of all existing and proposed WTS facilities on the property, shown in relation to the height limit for the District and measured from sidewalk grade; b) Dimensions of each existing and proposed antenna and back-up equipment on the property; c) Power rating for all existing and proposed back-up equipment subject to the Application; d) Preferred method of attachment of proposed antenna (roof, wall mounted, monopole) with plot or roof plan along with detailed installation plans with a description for screening and/or visual integration into the building's architecture.

For more information,
please refer to
the Planning
Department's *Wireless
Telecommunications
Services (WTS) Facilities
Siting Guidelines*
document which can be
found on our web site
www.sfplanning.org

☐ **E. Emissions Report and Approval from DPH**

An emissions report (with a copy forwarded directly to DPH) showing the total number of watts per installation and the total number of watts for all installations on the site; the number and types of WTS within 100 feet of the proposed site with estimated cumulative emissions at the subject site; a wet stamp of a licensed professional engineer; and a signed copy of DPH review and approval.

☐ **F. Section 106 Review**

Declaration of intent to comply. A Section 106 evaluation is required for all new WTS facilities proposed on any structure 45 years of age and older, within 250 feet of an eligible historic district, or a significant alteration to an existing site. Complying with Section 106 of the National Historic Preservation Act (NHPA) is a statutory obligation that is separate and distinct from complying with the National Environmental Policy Act (NEPA). For more information, please visit the California Office of Historic Preservation web site, http://ohp.parks.ca.gov/?page_id=22327.

☐ **G. Contextual Photographs**

Photographs of the surrounding buildings within 100 feet of the subject site showing the facades and heights of nearby buildings.

☐ **H. Photo-simulations**

Two copies of photographs with existing conditions and two copies of photo-simulations with proposed conditions.

☐ **K. Plans**

Site Map identifying the subject parcel; the Use District for the subject parcel and adjacent parcels; and Height and Bulk designations for the subject block. Full-size architectural plans with dimensions in feet of: the building height; any rooftop penthouse height; parapet wall height; existing WTS antenna/equipment height; proposed WTS antenna/equipment height; and equipment specifications.

I hereby certify that I have provided the information requested on this checklist as part of filing my application for a WTS Facility. I understand that if this material is not provided my application will be considered incomplete.

 Signature

 Name (Print), Title

 Date

STREET ADDRESS OF PROJECT:		ZIP CODE:	
CROSS STREETS:			
ASSESSORS BLOCK/LOT:	ZONING DISTRICT:	HEIGHT/BULK DISTRICT:	DATE OF MOST RECENT 5-YEAR PLAN:
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You must submit this affidavit along with the Wireless Telecommunications Facility checklist to the Planning Department.

Declaration of Intent for Section 106 Review

I, _____, do hereby declare as follows:

a. The subject Wireless Telecommunications Facility is located at (address):

Address

b. I am aware that, according to Section 106 of the NHPA that evaluation is required for all new WTS facilities proposed on any structure 45 years of age and older, within 250 feet of an eligible historic district, or a significant alteration to an existing site; and intend to comply with all said requirements.

c. I am a duly authorized officer or owner of the subject business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this day, _____, in

Location

Signature

Name (Print), Title

Contact Phone Number

Accessory Use Site Application Checklist



SAN FRANCISCO
PLANNING
DEPARTMENT

APPLICATION CHECKLIST FOR Accessory Use Site Applications for Wireless Telecommunications Facilities

Planning Department
1650 Mission Street
Suite 400
San Francisco, CA
94103-9425

T: 415.558.6378
F: 415.558.6409

For more information,
please refer to
the Planning
Department's *Wireless
Telecommunications
Services (WTS) Facilities
Siting Guidelines*
document which can be
found on our web site
www.sfplanning.org

Wireless Telecommunication Services (WTS) Facilities subject to the WTS Guidelines and this checklist include antennas which both receive and transmit radio signals, telecommunications relay stations, or other similar structures which transmit voice, video or data. **The Planning Department will make every effort to improve the aesthetic impact of existing sites whenever possible. Project Review for individual sites is strongly recommended.**

Each application for a new WTS facility must provide the following information with the application or building permit application:

☐ **A. Five-Year Facilities Plan**

The Five-Year Plan must be updated biannually on or before April 1st and October 1st of each year or as required by the Zoning Administrator. In each update service providers must note the changes from the previous submittal on a spreadsheet submitted to the Department electronically. A Five-Year Plan is required only if an updated plan has not been submitted.

☐ **B. Accessory Use Determination Letter**

A copy of the Determination letter signed by the Zoning Administrator. The letter must be photocopied onto the architectural plans for proper microfilming. Separate copies of the letter will not be accepted.

☐ **C. Service Area Definition**

Using coverage maps, identify the geographic service area for the subject installation; describe the distance(s) between wireless sites; describe how this service area fits into and is necessary for the company's service network; and identify any potential site consolidation opportunities.

☐ **D. Location Preference**

Identify the Location Preference the proposed facility meets using Section 8.1 of the WTS Facilities Siting Guidelines. If the proposed site is not a preferred location (Preference 1 thru 4) describe: (a) what publicly-used building, co-location site or other Preferred Location Sites are located within the geographic service area; (b) what good faith efforts and measures were taken to secure these more preferred location (i.e. Paragraphs 1 through 5 above); (c) why such efforts were unsuccessful; and (d) how and why the proposed site is essential to meet service demands for the geographic service area and the Applicant's citywide network.

☐ **E. Cumulative Effects**

Identify the location of the Applicant's antennas and back-up facilities per building; number and location of other telecommunication facilities on the property; include the following data for each facility: a) Height of all existing and proposed WTS facilities on the property, shown in relation to the height limit for the District and measured from sidewalk grade; b) Dimensions of each existing and proposed antenna and back-up equipment on the property; c) Power rating for all existing and proposed back-up equipment subject to the Application; d) Preferred method of attachment of proposed antenna (roof, wall mounted, monopole) with plot or roof plan along with detailed installation plans with a description for screening and/or visual integration into the building's architecture.

☐ **F. Section 311 or 312 Notification materials, if applicable**

Accessory Use sites in RH & RM Districts require Section 311 Neighborhood Notification. Accessory Use sites in NC Districts require Section 312 Neighborhood Notification. Please reference the Building Permit Application Packet for additional information.

☐ **G. Emissions Report and Approval from DPH**

An emissions report (with a copy forwarded directly to DPH) showing the total number of watts per installation and the total number of watts for all installations on the site; the number and types of WTS within 100 feet of the proposed site with estimated cumulative emissions at the subject site; a wet stamp of a licensed professional engineer; and a signed copy of DPH review and approval.

☐ **H. Section 106 Review**

Declaration of intent to comply. A Section 106 evaluation is required for all new WTS facilities proposed on any structure 45 years of age and older, within 250 feet of an eligible historic district, or a significant alteration to an existing site. Complying with Section 106 of the National Historic Preservation Act (NHPA) is a statutory obligation that is separate and distinct from complying with the National Environmental Policy Act (NEPA). For more information, please visit the California Office of Historic Preservation web site, http://ohp.parks.ca.gov/?page_id=22327.

☐ **I. Contextual Photographs**

Photographs of the surrounding buildings within 100 feet of the subject site showing the facades and heights of nearby buildings.

☐ **J. Photo-simulations**

Two copies of photographs with existing conditions and two copies of photo-simulations with proposed conditions.

☐ **K. Plans**

Site Map identifying the subject parcel; the Use District for the subject parcel and adjacent parcels; and Height and Bulk designations for the subject block. Full-size architectural plans with dimensions in feet of: the building height; any rooftop penthouse height; parapet wall height; existing WTS antenna/equipment height; proposed WTS antenna/equipment height; and equipment specifications.

I hereby certify that I have provided the information requested on this checklist as part of filing my application for a WTS Facility. I understand that if this material is not provided my application will be considered incomplete.

 Signature

 Name (Print), Title

 Date

STREET ADDRESS OF PROJECT:			ZIP CODE:
CROSS STREETS:			
ASSESSORS BLOCK/LOT:	ZONING DISTRICT:	HEIGHT/BULK DISTRICT:	DATE OF MOST RECENT 5-YEAR PLAN:
/			



SAN FRANCISCO
PLANNING
DEPARTMENT

DECLARATION OF INTENT FOR Wireless Telecommunications Facility Section 106 Review

Planning Department
1650 Mission Street
Suite 400
San Francisco, CA
94103-9425

T: 415.558.6378
F: 415.558.6409

A Section 106 evaluation is required for all new WTS facilities proposed on any structure 45 years of age and older, within 250 feet of an eligible historic district, or a significant alteration to an existing site. Complying with Section 106 of the National Historic Preservation Act (NHPA) is a statutory obligation that is separate and distinct from complying with the National Environmental Policy Act (NEPA). For more information, please visit the California Office of Historic Preservation web site, http://ohp.parks.ca.gov/?page_id=22327.

You must submit this affidavit along with the Wireless Telecommunications Facility checklist to the Planning Department.

Declaration of Intent for Section 106 Review

I, _____, do hereby declare as follows:

a. The subject Wireless Telecommunications Facility is located at (address):

Address

b. I am aware that, according to Section 106 of the NHPA that evaluation is required for all new WTS facilities proposed on any structure 45 years of age and older, within 250 feet of an eligible historic district, or a significant alteration to an existing site; and intend to comply with all said requirements.

c. I am a duly authorized officer or owner of the subject business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this day, _____, in

Location

Signature

Name (Print), Title

Contact Phone Number